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Letter dated 2 October 2007 from the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan addressed to the President of the Security Council

I have the honour to transmit herewith the final report of the Panel of Experts as requested by the Security Council in paragraph 2 of resolution 1713 (2006) (see annex).

The attached report was presented to the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan on 10 September 2007, and was subsequently considered in the Committee on 27 September 2007 once the report had been translated in all languages.

The Committee intends to speedily complete a thorough consideration of the recommendations contained in the report, after which I will present the Committee's views on the report to the Security Council.

I would therefore be grateful if the present letter and its annex were issued as a document of the Security Council.

(*Signed*) Marcello **Spatafora**
Chairman
Security Council Committee established pursuant to
resolution 1591 (2005) concerning the Sudan

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Annex

Letter dated 10 September 2007 from the Panel of Experts on the Sudan addressed to the Chairman of the Security Council Committee established pursuant to resolution 1591 (2005) concerning the Sudan

On behalf of the members of the Panel of Experts established pursuant to Security Council resolution 1591 (2005) concerning the Sudan, I have the honour to transmit herewith the report of the Panel prepared in accordance with paragraph 2 of Security Council resolution 1713 (2006).

(*Signed*) Gerard P. **McHugh**
Coordinator
Panel of Experts on the Sudan established pursuant
to Security Council resolution 1591 (2005)

(*Signed*) Thomas W. **Bifwoli**
Expert member

(*Signed*) Bernard S. **Saunders**
Expert member

Report of the Panel of Experts established pursuant to resolution 1591 (2005) concerning the Sudan prepared in accordance with paragraph 2 of resolution 1713 (2006)

Summary

The present report presents the findings and recommendations of the Panel of Experts in the four substantive task areas of its work during the period 29 September 2006 to 29 August 2007. Those four areas are: (1) monitoring implementation of the arms embargo on Darfur; (2) monitoring implementation of targeted financial and travel-related sanctions against individuals designated by the Security Council in its resolution 1672 (2006); (3) submission of recommendations to the Security Council; and (4) provision of information on individuals who impede the peace process, commit violations of international humanitarian and human rights law, violate the arms embargo, or are responsible for offensive military overflights.

Monitoring implementation of the arms embargo

The Panel of Experts has established that violations of the arms embargo continued, both by the Government of the Sudan and non-State armed groups, during the period of this report, from 29 September 2006 to 29 August 2007. Weapons, specifically heavy weapons (artillery pieces), small arms, ammunition and other military equipment are entering the Darfur states from other countries and from the region of the Sudan.

As stated in previous reports of the Panel, in spite of the clear understanding of its obligations under Security Council resolution 1591 (2005), at the time of writing the present report, the Government of the Sudan had not submitted any requests for approval to the Security Council Committee established pursuant to that resolution to enable the movement of weapons, ammunition or other military equipment into Darfur, thereby knowingly violating the provisions of the resolution.

Monitoring implementation of targeted financial and travel-related sanctions

The Panel of Experts has monitored the implementation of the provisions of subparagraphs 3 (d) and 3 (e) of Security Council resolution 1591 (2005) concerning targeted financial and travel-related sanctions, as applied to the individuals specified in Security Council resolution 1672 (2006). The Panel has determined that the Governments of Chad and the Sudan have failed to fully implement the aforementioned provisions of resolutions 1591 (2005) and 1672 (2006). No requests have been received to remove the names of individuals designated by the Security Council and Committee or for exemptions to the targeted sanctions.

Regarding the four individuals designated in Security Council resolution 1672 (2006):

(a) The Government of the Sudan has stated that Major-General Gaffar Mohamed Elhassan (Commander of the Western Military Region for the Sudanese

Air Force) has not left the Sudan and, being a retired officer with an inconsiderable account in Sudanese banks, his account is not being monitored;

(b) Regarding Sheikh Musa Hilal (Paramount Chief of the Jalul Tribe in Northern Darfur), the Government of the Sudan maintains that he has not left the Sudan and, being a Bedouin nomadic leader, his accounts cannot be monitored. The Panel, however, has received information that this individual continues to act in a manner that impedes the peace process;

(c) In respect of Adam Yacub Shant (Sudanese Liberation Army Commander), no action has been taken, as, during discussions with the Panel, officials of the Governments of Sudan and Chad have consistently denied that he is a national of their countries;

(d) With regard to Gabril Abdul Kareem Badri, the Panel received credible information that the National Movement for Reform and Development, the organization that was led by him, is actively interacting with other non-State armed groups in the Chad-Sudan border area. Gabril is believed to be living in Chad, and is also known as General Gibril Abdul Kareem Barey.

The Panel has also received information about financial and logistical support being provided to the non-State armed groups in Darfur by certain elements, including the Sudanese diasporas living in Europe and the Middle East and in the region.

Offensive military overflights

From September 2006 to June 2007, the Government of the Sudan conducted offensive military overflights in Darfur, which included aerial bombardments by Antonov aircraft, aerial attacks by Mi-24 attack helicopters and the use of air assets for military surveillance. Sixty-six such aerial attacks were reported during that period, of which 24 were confirmed definitively. The overall frequency of such has been on the decline since April 2007, likely as a result of the progress made in pre-negotiation consultations involving the non-signatory factions and the increased international focus on the role of white aircraft in conducting offensive military operations. There were no reported aerial attacks in the month of July (see annex IV).

Individuals who impede the peace process and who commit violations of international humanitarian and human rights law

The Panel of Experts has revised the criteria for acts that constitute impediments to the peace process or threats to stability in Darfur and the region to guide its provision of information to the Security Council and the Committee. The nine categories are presented in annex II.

The Panel has found that ongoing hostilities by parties to the conflict in Darfur, particularly the Government of the Sudan, the National Redemption Front (NRF), the Sudan Liberation Army/Minni Minawi (SLA/MM) faction, and Arab militia groups, are impeding the peace process. The actions of Abdul Wahid Mohammed al-Nur in placing expansive preconditions on the involvement of members of the Sudan

Liberation Army/Abdul Wahid (SLA/AW) faction in the United Nations-African Union mediated pre-negotiation consultations, also represent an impediment to peace in Darfur. The Government of the Sudan has consistently failed to identify, neutralize and disarm armed militia groups in Darfur. This has exacerbated intertribal conflicts, especially in Southern Darfur. Moreover, the Panel has found that the Sudanese Armed Forces (SAF) and members of the Popular Defense Force (PDF) and the Border Intelligence Guard continue to participate in unitary or coordinated attacks.

NRF and SLA/MM have actively targeted personnel of the African Union Mission in the Sudan (AMIS) in Darfur, and the extensive use of white aircraft by the Government of the Sudan, including the use of white Antonov aircraft in some of the 66 aerial attacks catalogued by the Panel between September 2006 and July 2007, constitutes a serious obstruction to the work of AMIS and the United Nations. In one instance the Panel found that the Government of the Sudan had used a white Antonov aircraft with "UN" markings in offensive military overflights.

Other impediments to the peace process include the failure of the Government of the Sudan, SLA/MM, NRF and Arab tribes to enforce accountability among combatants for acts that may contravene the laws and norms of warfare.

The Panel has established that widespread violations of international humanitarian law continue with impunity in Darfur. These violations include intentional targeting of civilians and civilian property, indiscriminate attacks and failure to take adequate precaution to protect civilians, looting of civilian property and use of rape as an instrument of warfare.

The Panel has investigated 10 case studies of significant engagements between organized armed groups involving acts that constitute violations of international humanitarian and human rights law. These cases have included aerial and ground attacks by the Government of the Sudan, sometimes involving allied tribal militia groups; intertribal fighting; and acts committed by individuals affiliated with the SLA/MM faction, etc. The case studies have confirmed the involvement and participation of members of the Border Intelligence Guard and the Popular Defense Force in attacks by tribal militia groups in Southern Darfur that have resulted in significant civilian casualties and destruction of civilian property.

The Panel has identified a number of instances in which rape was used as an instrument of warfare.

The Panel also found substantial evidence of violations of the right to life and violation of the prohibition of cruel, inhuman or degrading treatment. These violations were conducted by all parties to the conflict, but most noticeably by SAF, the SLA/MM faction and tribal militia groups.

The Government of the Sudan has abjectly failed to take the necessary steps to protect and fulfil the human rights of individuals in Darfur, notwithstanding the security and access constraints that the Government experiences in certain parts of Darfur.

Summary of recommendations

The following table summarizes the recommendations of the Panel of Experts, which are presented here in the order in which they appear in the report.

Number	*Subject*	*Recommendation*	*Paragraphs*
1	Multiple-entry visas	The Security Council should request that the Government of the Sudan provide multiple-entry visas, valid for the full duration of the Panel's mandate, to the Panel of Experts and additional members of the Panel's team.	51
2	Panel's visit to the Libyan Arab Jamahiriya, Egypt and Eritrea	If the mandate of the Panel of Experts is extended, the Security Council/Committee should request the Governments of the Libyan Arab Jamahiriya, Egypt and Eritrea to facilitate visits by the Panel of Experts.	54
3	Response to the Panel's request for information	The Security Council/Committee should encourage Member States that have not responded to requests for information from the Panel of Experts, or that have provided incomplete information, to provide the requested information to the Panel or directly to the Committee.	57
4	Interaction between the Panel of Experts and the African Union-United Nations Hybrid Operation Force (UNAMID)	The Security Council should request that UNAMID regularly provide to any future Panel of Experts information in its possession or observations concerning the presence of military equipment and supplies in Darfur or the transfer into Darfur of such equipment and supplies.	66
5	Additional notification/approval procedures under arms embargo	The Security Council should specify additional exemptions to the provisions of resolution 1591 (2005) to permit the transfer into Darfur of military equipment and supplies by parties other than the Government of the Sudan and non-State armed groups operating in Darfur in support of UNAMID and the implementation of resolution 1769 (2007).	67
6	Notification/approval procedures related to regional agreements	The Security Council should establish additional notification or approval procedures, similar to those in paragraph 7 of Security Council resolution 1591 (2005), to permit the deployment in Darfur of military equipment and supplies deemed to be essential for the implementation of Security Council-endorsed regional or other agreements (for example, the Tripoli Agreement of February 2006).	69
7	Interim reports of the Panel	During the current mandate, the Panel of Experts presented two interim reports to the Committee (March and June 2007). The Panel recommends that interim reports under any future mandate should be shared with the Government of the Sudan in the event that they are not issued as public documents of the Security Council.	71
8	Committee visit to Darfur	Reflecting the practical proposals agreed by the Security Council in 1999 (S/1999/92), a delegation from the Committee may wish to consider undertaking a visit/mission to Darfur and eastern Chad.	72
9	Sale of arms to non-State armed groups in eastern Chad	The Security Council should establish a prohibition on the sale and supply of arms and related materiel to non-State armed groups located in or operating from Chad (similar to original provisions of resolution 1556 (2004) as they apply to Darfur).	122
10	Designation of individuals who violate the arms embargo	The Security Council or Committee should consider Khalil Ibrahim Mohammed and Adam Bahkit for designation as individuals who violated the arms embargo and thereby constitute an impediment to peace and a threat to stability in the region.	123-124
		On the basis of its findings presented in previous reports and confidential annexes, substantiated in the current mandate, the Security Council or Committee should designate Daoussa Déby as being	

Number	Subject	Recommendation	Paragraphs
		subject to the measures in subparagraphs 3 (d) and 3 (e) of resolution 1591 (2005) because of his support to non-State armed groups based in or operating from eastern Chad.	
11	Military aviation fuel	The Security Council or Committee should demand that all States take the necessary measures to prevent the sale or supply, by their nationals or from their territories, of aviation fuel for military aircraft of the Government of the Sudan operating in Darfur.	125
12	Aviation-related sanctions	In the light of the use of Sudanese Civil Aviation Authority registration numbers on SAF aircraft in military operations, it is recommended that the Committee review, for possible implementation, the aviation ban options available in the report entitled *Design and Implementation of Arms Embargoes and Travel and Aviation-related Sanctions: Results of the Bonn-Berlin Process*.	126
13	Aviation-related sanctions on select air companies	The Panel recommends that an aviation ban be imposed on Ababeel Aviation, AZZA Transport, Badr Airlines, Juba Air Cargo, Trans Attico and United Arabian Airlines, and that all States take measures to deny permission to any aircraft to take off from, land in, or overfly their territory if that aircraft is owned, leased or controlled by or operated on behalf of these companies. The Panel further recommends the immediate and complete closure of all the companies' offices, and ban on the directors and shareholders of these companies from establishing new aviation companies or purchasing or leasing aircraft.	127
14	End-use certification	Member States that export or supply arms, military equipment or supplies to the Sudan should be required to insist on the provision of end-use certification by the Government of the Sudan that would indicate the intended primary location of use of the equipment and supplies.	138
15	Enhanced border control	States bordering Darfur, and other regional States, should be supported through capacity-building in border control measures and with technical assistance. In order to be eligible for such support, States should demonstrate a willingness to implement the arms embargo and other related provisions of Security Council resolutions.	139
16	Regional initiatives	The Security Council should consider and support regional initiatives that are aimed at improving the border situation between Darfur and neighbouring States. For example, the Security Council should insist on the implementation of the Tripoli Agreement of February 2006.	140
17	Role of the African Union-United Nations Hybrid Operation Force in Darfur along the Chad-Sudan border	As part of the deployment plan of the African Union-United Nations Hybrid Operation Force, the Security Council should deploy forces along the Chad-Sudan border (on the Sudanese side of the border), with the purpose of monitoring the cross-border movements of non-State armed groups and any arms, military equipment and supplies.	141
18	Designation of individuals	The Security Council or Committee should designate individuals or entities identified by the Panel or by other sources to be impediments to peace based on the provision of logistical and/or financial support to non-State armed groups as subject to the measures imposed in paragraphs 3 (d) and 3 (e) of Security Council resolution 1591 (2005).	158-159
19	Mechanisms for freezing financial support	The Panel proposes a series of mechanisms for freezing financial and logistical support on the basis of principles established by the Financial Action Task Force (FATF) 40 recommendations and the 9 special recommendations on terrorist financing, the Vienna Convention, the Palermo Convention against Transnational Organized Crime, and the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism.	160

Number	*Subject*	*Recommendation*	*Paragraphs*
20	Designations of individuals for offensive military overflights	The Security Council should consider Major General Mohamed al-Tahir al-Aharif, SAF Western Region Commander, for designation as being responsible for offensive military overflights in Darfur and as an individual responsible for acts that impede the peace process.	167-168
		The Security Council should designate the Commander of the Sudanese Air Force, currently believed to be Lieutenant General Mohammed Abdel Qadir, as being subject to the measures in resolution 1591 (2005).	
21	Prohibition on the sale of aircraft and associated spare parts	The Security Council should consider placing an embargo on the sale, supply and leasing of military fixed- and rotary-wing aircraft and associated spare parts for these aircraft to the Government of the Sudan.	169-170
		Alternatively, the Security Council should consider placing an embargo on the sale or supply of fixed- and rotary-wing aircraft — and all associated spare parts and training — which the Panel has conclusively demonstrated have engaged in offensive military overflights in Darfur, including, for example, Mi-24 attack helicopters and Antonov-26 aircraft.	
22	Designation of individuals who impede the peace process	(See body of report for recommendation)	349
23	Briefings by Envoys	The Security Council or Committee should invite the United Nations and African Union Special Envoys leading the mediation efforts in Darfur to: (a) include in their briefings to the Council specific information on individuals who are impeding the peace process; and/or (b) provide a dedicated briefing to the Committee on individuals who are impeding the peace process.	351
24	Resolution 1769 (2007)	The Security Council and/or Committee should require of any future Panel of Experts that it provide explicit information on individuals or Member States who are impeding the implementation of Security Council resolution 1769 (2007).	352
25	Violations of human rights: identifying benchmarks for action by the Government of the Sudan, SLA/MM and other parties	The Security Council and Committee should identify practical benchmarks for progress by parties to the conflict in Darfur, which the parties would be required to reach in a prescribed time frame to avoid future action/designation by the Committee.	354
26	Role of UNAMID in preventing violations of human rights in Darfur	Implementation of the explicit mandate of UNAMID prescribed in paragraph 15 of Security Council resolution 1769 (2007), to take the necessary action to protect civilians, should include steps to prevent violations of international human rights law, including steps to prevent inter-tribal violence, action to protect internally displaced persons in camps throughout Darfur, and proactive steps to deter aggression and attacks against civilians. Furthermore, UNAMID should take steps to apprehend individuals who are suspected of committing violations of international human rights law, in cases where the Government of the Sudan is unwilling or unable to pursue investigations of such violations.	355
27	Information from other sources on violations of international humanitarian and human rights law in Darfur	In light of the sources of information to the Committee identified in subparagraph 3 (c) of resolution 1591 (2005), the Committee should invite the Secretary-General, the United Nations High Commissioner for Human Rights and other relevant sources to present information to the Committee that may assist in identifying individuals who commit violations of international humanitarian and human rights law.	356

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Abbreviations

AMIS	African Union Mission in the Sudan
AN	Antonov (type of aircraft)
IL	Ilyushin aircraft
JEM	Justice and Equality Movement
JEM/SK	Justice and Equality Movement/Siddiq Abdul Karim
NGOs	non-governmental organizations
NMRD	National Movement for Reform and Development
NRF	National Redemption Front
PDF	Popular Defense Force
SAF	Sudanese Armed Forces
SFDA	Sudan Federal Democratic Alliance
SLA	Sudan Liberation Army
SLA/AS	Sudan Liberation Army/Abdul Shafi
SLA/AW	Sudan Liberation Army/Abdul Wahid
SLA/MM	Sudan Liberation Army/Minni Minawi
UNAMID	African Union-United Nations Hybrid Operation in Darfur
UNMIS	United Nations Mission in the Sudan

I. Introduction

1. In its resolution 1591 (2005), the Security Council requested the Secretary-General, in consultation with the Committee established under the same resolution, to appoint a Panel of Experts for a period of six months to assist the work of the Council and the Committee. The Panel was first appointed on 30 June 2005. The mandate of the Panel was subsequently extended on three occasions, most recently until 29 September 2007 by Security Council resolution 1713 (2006).

2. The present report is submitted pursuant to the requirement in resolution 1713 (2006) that the Panel provide a final report to the Council presenting its findings and recommendations, and focuses primarily on the period 29 September 2006 to 29 August 2007.

3. The mandated task areas of the Panel's work are drawn from Security Council resolutions 1556 (2004), 1591 (2005) and 1672 (2006), and can be summarized as follows:

(a) To assist the Committee in monitoring implementation of the measures in paragraphs 7 and 8 of resolution 1556 (2004) and paragraph 7 of resolution 1591 (2005); that is, provisions concerning the arms embargo;

(b) To assist the Committee in monitoring implementation of the measures in subparagraphs 3 (d) and 3 (e) of resolution 1591 (2005); that is, provisions concerning targeted financial and travel-related sanctions;

(c) To make recommendations on actions the Security Council may want to consider.

4. Furthermore, Security Council resolution 1591 (2005) identified the Panel as a source of information to the Committee regarding individuals who: (a) impede the peace process or constitute a threat to stability in Darfur and the region; (b) commit violations of international humanitarian or human rights law; (c) violate the arms embargo; or (d) are responsible for offensive military overflights.

5. In addition to these four substantive task areas, the Panel is mandated to travel regularly to El Fasher and other locations in the Sudan from a base in Addis Ababa. The Panel is also required to coordinate its activities, as appropriate, with the ongoing operations of the African Union Mission in the Sudan (AMIS).

6. The following sections convey the Panel's findings and recommendations and outline procedural aspects of the Panel's work. Section II portrays the evolving political and security context within which the Panel undertook its activities. Section III describes the programme of work and working procedures of the Panel. Sections IV, VI, VII, and VIII present the findings and recommendations of the Panel concerning, respectively, monitoring implementation of the arms embargo, monitoring implementation of targeted financial and travel-related sanctions, offensive military overflights, and individuals who impede the peace process or who commit violations of international humanitarian and human rights law. Section V describes customs and border control measures as they relate to the work of the Panel and measures in the relevant Security Council resolutions.

7. The Panel of Experts wishes to acknowledge the invaluable contributions of the following Panel members who served on the Panel for part of the mandate: Mr. Debi Prasad Dash (to June 2007) and Mr. Yassin el-Ayouty (to February 2007),

as well as the contributions of the following consultants who assisted the Panel: Mr. Christian Dietrich, Mr. Frank Dutton and Mr. Anoop Swarup. The Panel also wishes to acknowledge the excellent service of its interpreter and translator, Ms. Rima al-Chikh, who worked with the Panel for the duration of its mandate.

Correction to previous report of the Panel

8. In its previous final report, published in October 2006, the Panel erroneously identified the source of a report on sexual violence against women as the International Committee of the Red Cross; the source of the report in question was the International Rescue Committee.[1] The Panel apologizes for this error in its reporting.

II. Political and security developments relevant to the work of the Panel

A. Purpose

9. This section provides a brief overview of recent developments in Darfur and the region pertinent to the mandate and activities of the Panel of Experts, focusing on the evolving security environment in Darfur, developments in the peace process and transition to a joint United Nations-African Union peace operation, and relations between Chad and the Sudan.

B. Evolving security environment in Darfur

10. The dynamic security situation in Darfur during the period September 2006 to July 2007 was characterized by:

(a) Armed clashes between the armed forces of the Government of the Sudan, armed militia groups (so-called Janjaweed groups), non-State armed groups, and foreign armed elements;

(b) Intertribal disputes and fighting (particularly in Southern Darfur);

(c) Attacks against the African Union, the United Nations and national/international non-governmental organizations (NGOs);

(d) Incidents targeted against the internally displaced persons population, including harassment, murder and rape;

(e) Banditry and looting of commercial traffic and humanitarian vehicles and goods.

11. The Panel has catalogued the reported significant security incidents (primarily military engagements or aerial attacks) involving organized armed groups in Darfur during the period September 2006 to July 2007. The number of incidents per month during this period is shown in figure 1. There was a higher level of such incidents for each of the last three months of 2006 than for each of the first four months of 2007. While many of the armed engagements in the last three months of 2006 involved the Government of the Sudan and the National Redemption Front (NRF),

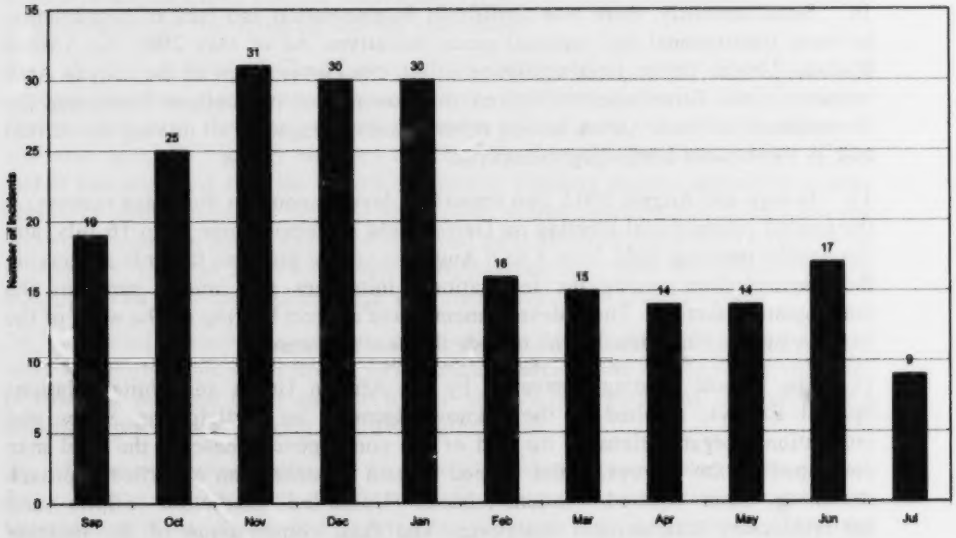
[1] See S/2006/795, para. 130.

from early 2007 onwards there was an increase in fighting between different tribes and their associated militia groups.

12. While the frequency of significant armed attacks has declined, there has been an upsurge in the number of hijacking/carjacking incidents perpetrated by non-State armed groups throughout Darfur, particularly targeting humanitarian vehicles and personnel. In the first half of 2007 (January to June), the number of carjacking incidents in Darfur was more than twice that of the same period in 2006 (85 in 2007, compared to 40 in 2006). These carjackings frequently involved the abduction of humanitarian personnel, with many more people abducted than vehicles hijacked in most incidents. Overall, there has been a 25 per cent increase in attacks on humanitarian workers and equipment, comparing the first half of 2007 to the first half of 2006.

13. Although attacks against the United Nations and AMIS have generally decreased since January 2007, the severity and lethality of these attacks has increased, for AMIS in particular. A total of 17 AMIS soldiers have been killed since AMIS deployed in 2004, but 10 of those were killed in 2007, with all but one of those in March and April 2007. These attacks, along with other issues, have resulted in significantly scaled back AMIS operations in Darfur.

Figure 1
Significant engagements/attacks between organized armed groups in Darfur during the period September 2006 to July 2007



Source: Data compiled from multiple verifiable sources by the Panel of Experts.

C. Developments in the peace process and transition to a joint United Nations-African Union peace operation

14. At the beginning of the Panel mandate (September 2006), political and diplomatic initiatives focused on the situation in Darfur were attempting to: (a) advance and energize the peace process to provide a more inclusive basis for peace negotiation; and (b) secure agreement from the Government of the Sudan to accept the transition from an African Union to a United Nations peace operation in Darfur. Both of these initiatives are highly relevant to the work of the Panel as it relates to the provision of information on individuals who impede the peace process or constitute a threat to stability.

Developments in the peace process

15. In the latter half of 2006, it became apparent that efforts to secure agreement from groups that had not initially signed the Darfur Peace Agreement (including the Justice and Equality Movement (JEM) and the Sudan Liberation Army/Abdul Wahid (SLA/AW) faction) would not be successful. At the same time, non-State armed groups operating in Darfur began to fragment into numerous factions, with some opposing and some accepting, conditionally, the Darfur Peace Agreement. At the end of 2006 and in early 2007, efforts focused on developing a common platform for the non-signatory factions. From January to May 2007 there were considerable attempts to unify these factions, but these efforts were largely unsuccessful.

16. Simultaneously, there was significant fragmentation and lack of coordination between international and regional peace initiatives. As of May 2007, the United Nations-African Union joint mediation effort, the Government of the Libyan Arab Jamahiriya, the Government of Eritrea, the Government of Southern Sudan and the Government of South Africa, among other stakeholders, were all driving concurrent and, in some cases competing, initiatives.

17. In July and August 2007, two important developments in the peace process — the second international meeting on Darfur, held in Tripoli from 15 to 16 July, and the Arusha meeting, held from 3 to 6 August — made progress towards addressing the fragmentation among the international initiatives and among some of the non-signatory factions. These developments have a direct bearing on the work of the Panel relating to individuals who impede the peace process.

18. The Tripoli meeting, convened by the African Union and United Nations Special Envoys, resulted in the acknowledgement by participating States and international organizations of the end of the convergence phase of the road map developed by the Envoys, which helped to gain consensus on a unified approach stemming from United Nations-African Union-led mediation efforts and complementary international initiatives. The final communiqué of the meeting concluded that invitations for a new round of negotiations should be issued by the end of August 2007.

19. From 3 to 6 August 2007, the United Nations and African Union Special Envoys convened a meeting of leading personalities of the Darfur movements, the outcome of which was the presentation by participants of a common platform for the final negotiations on power-sharing, wealth-sharing, security arrangements, land/*hawakeer* and humanitarian issues. All of the main non-signatory factions

participated in the consultations, with the exception of the SLA/AW faction.[2] The Panel remained fully cognizant of the developments during and following the Arusha consultations as a means of informing its provision of information to the Committee.

Transition to a joint United Nations-African Union peace operation

20. The absence of a robust peacekeeping operation and an enforceable ceasefire agreement have constituted two of the most serious impediments to maintaining security and achieving a peaceful settlement to the conflict in Darfur.

21. The agreement by the Government of the Sudan to unconditionally accept the deployment of a hybrid African Union-United Nations mission in Darfur resulted in the subsequent establishment of the African Union-United Nations Hybrid Operation in Darfur (UNAMID) by the Security Council by its resolution 1769 of 31 July 2007. Any obstruction of or obstacles to the deployment of UNAMID will represent a significant impediment to the peace process.

D. Relations between Chad and the Sudan

22. During the current mandate of the Panel, relations between Chad and the Sudan have fluctuated between punctuated cross-border incursions — both by State forces and proxy forces — and periods of détente. Relations between the two States have been influenced by regional peace and stability initiatives, internal tribal dynamics within Chad, and the oscillating support by each Government for armed opposition groups operating against the other State.

23. The Government of Chad has provided safe haven in eastern Chad to armed opposition groups, including JEM and others, operating in Darfur. Some of these groups have been supported via the provision of weapons by elements within or affiliated with the security services in Chad. Conversely, the Government of the Sudan has provided safe haven and support to Chadian armed opposition groups operating from Darfur. As early as April 2006, armed elements operating from the border between the Sudan and Chad launched an (ultimately unsuccessful) attack on N'Djamena. Later in 2006 there were further armed incursions into Chad from the Sudan (Darfur) directed against Adré and other locations in eastern Chad.

24. Regional initiatives sponsored or hosted by the Governments of the Libyan Arab Jamahiriya and Saudi Arabia have aimed to address the source of the volatility in relations between Chad and the Sudan, namely both countries' support to and hosting of proxy forces acting against the other State.

25. The situation is complicated by tribal allegiances between the regime of Idris Déby in Chad and armed (Darfurian) opposition groups operating against the Government of the Sudan and drawn from the same tribe as President Déby, the Zaghawa.

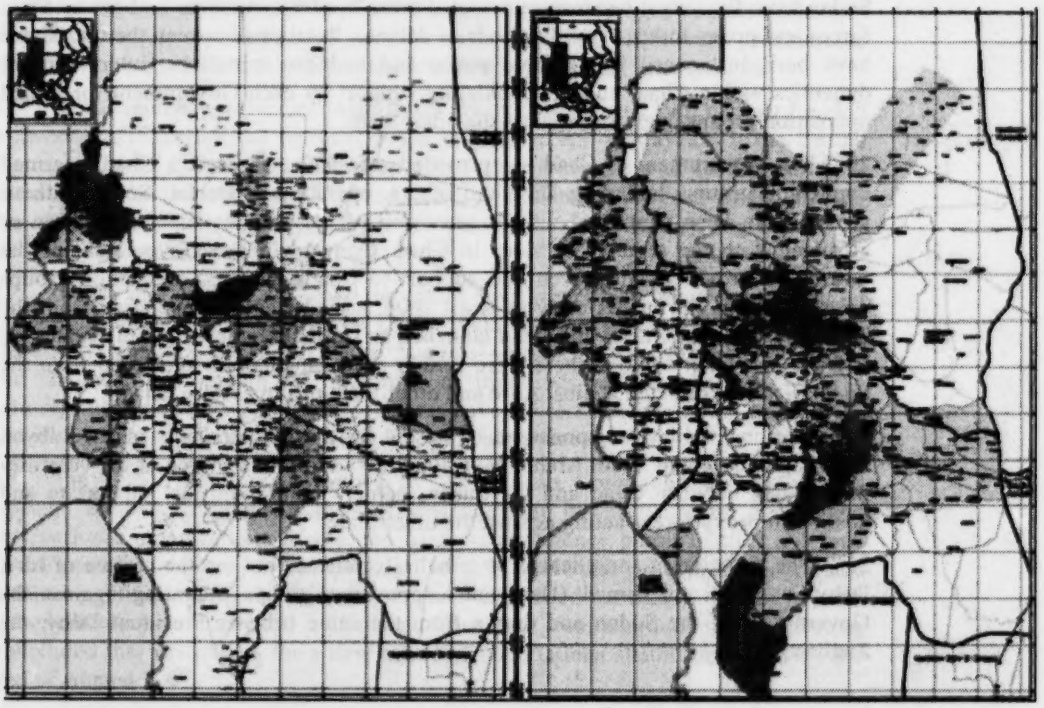
[2] The movements represented at the Arusha consultations included: JEM, the Sudan Federal Democratic Alliance, NMRD, SLA/Unity, SLA/Abdul Shafi, and SLA-Khamis Abdullah factions.

E. Impact of the conflict on the humanitarian situation in Darfur

26. The conflict and general level of insecurity in Darfur continue to constitute major impediments to meeting the humanitarian needs of the population in Darfur, particularly the most vulnerable groups, including women, children, the sick and people displaced from their homes. The conflict has resulted in the direct displacement of populations, while the high level of insecurity, ongoing fighting in some areas and the increased attacks against humanitarian personnel and vehicles have frustrated delivery of humanitarian assistance. Access to affected populations declined significantly over the period May 2006 to July 2007 (see fig. 2).

27. Through displacement from traditional homelands and direct targeting of livestock in some attacks, the humanitarian needs of the displaced population have been accentuated and the displaced population in particular is increasingly dependent on humanitarian assistance to meet their basic needs.

Figure 2
Comparison of humanitarian access in Darfur, May 2006 (left) and July 2007 (right). The lightly shaded areas indicate limited humanitarian access, while the dark shaded areas indicate no humanitarian access



III. Programme of work and working procedures

A. Programme of work

28. The Panel of Experts assembled in New York in mid-December 2006 to commence work under the current mandate. While in New York, the Panel participated in a meeting of the Committee on 21 December 2006 and also met with the Permanent Missions of Security Council members, Secretariat departments and specialized agencies (see annex I). The Panel members departed New York to the Panel's base in Addis Ababa at the end of December 2006.

29. Upon arrival in Addis Ababa, the Panel quickly re-established its administrative base of operations and continued preparations for the Panel's first mission to the Sudan. While awaiting travel visas from the Government of the Sudan, the Panel had the opportunity to meet with United Nations Special Envoy Jan Eliasson. The Panel travelled to the Sudan in early January 2007, where it re-established contacts with focal points within the Ministry of Foreign Affairs and the Office of the Assistant Representative of the President for Darfur States in Khartoum. During that first mission, the Panel travelled to each of the three states of Northern, Southern and Western Darfur.

30. In February 2007, the Panel conducted a mission to Chad, where the Panel continued its consultations with representatives from a range of Government ministries, United Nations agencies, international non-governmental organizations and diplomatic missions in N'Djamena (see annex I). The Panel also met with representatives from several Darfur opposition groups. Upon return to Addis Ababa, the Panel began preparations for a second mission to the Sudan and met with African Union Special Envoy Salim Ahmed Salim.

31. Panel members returned to the Sudan for an extensive mission from 12 February to 12 March 2007. During that visit, the Panel travelled to the three state capitals of El Fasher, Nyala and El Geneina, among other locations in Darfur. Panel members also undertook travel to Geneva, departing from and returning to Khartoum, in mid-February 2007.

32. During that mission to the Sudan, the Panel sent two special case reports to the Committee.[3] Those reports were followed on 16 March 2006 by the first interim report of the Panel. The Panel subsequently embarked upon a second mission to Chad, including to eastern Chad, to meet with the many Darfur opposition and non-State armed groups that had gathered in Abéché and the surrounding area for unification talks. The mission also facilitated further meetings with United Nations agencies and international NGOs operating in eastern Chad (see annex I).

33. In early April 2007, the Panel travelled to New York to present its midterm briefing to the Committee and held meetings en route in London with representatives of Darfur opposition and diaspora groups based in the United Kingdom of Great Britain and Northern Ireland. After the Committee briefing on 10 April, the Panel travelled to Washington D.C. for meetings and consultations with various international organizations and other agencies (see annex I).

[3] Case references: 1591P/M4-2/0207 (16 February 2007) and 1591P/M4-3/0307 (10 March 2007).

34. At the end of April 2007, the Panel commenced another extensive mission to the Sudan, during which the Panel continued its investigations and field research, particularly with regard to case studies identified by the Panel. During that mission, Panel members travelled widely in Darfur, including to Umm Rai, Zalingei, Kulbus and Gereida.

35. In early June 2007 the Panel travelled to Europe for meetings and consultations with national authorities and intergovernmental organizations, as well as representatives of the Darfur opposition and diaspora groups (see annex I). Following that mission, the Panel again travelled to Chad (N'Djamena and Abéché).

36. The Panel sent its second interim report to the Committee on 14 June 2007. From mid-June to the end of August 2007, the Panel conducted three separate missions to the Sudan, in each case travelling to Khartoum and several locations in Darfur. At the end of July the Panel conducted another mission to Chad. The Panel also visited Nairobi, where interlocutors of interest to the Panel now reside. The Panel members assembled in Addis Ababa on 11 August 2007 to write this report.

B. Methodology

Overall approach

37. In discharging its mandate, the Panel of Experts adhered to a technical, fact-finding approach, with the objective of isolating the work of the Panel from political debates or agendas. The Panel, however, kept itself fully apprised of developments in the political domain relevant to the work of the Panel (for example, tracking developments in the peace processes as they relate to the Panel's mandate to provide information on individuals who may impede the peace).

38. The methodology employed by the Panel in undertaking its monitoring and investigative task areas consisted of the following elements: (a) a comprehensive literature, documentation and data review; (b) analysis of existing information/data; (c) field research and investigations, including interviews; (d) analysis based on field research and investigations; and (e) presentation of findings and development of recommendations.

39. The Panel employed a process-tracing methodology, which identifies successive links in a process (e.g. the supply of weapons) by elaborating the various steps in the process and verifying the main actors involved through interviews, field research, documentation review and analysis. This methodology assisted in identifying cause-effect relationships and in substantiating the intermediate steps linking cause and effect.

40. The Panel used data triangulation to verify and validate the information that it gathered. The Panel set itself a standard of information analysis based on the verification and validation of information by a minimum of two independent and verifiable sources. In this regard, the Panel took note of the recommendations concerning the capacity of expert panels and monitoring mechanisms developed under the Stockholm Process on the Implementation of Targeted Sanctions.[4]

[4] Peter Wallensteen et al., eds., *Making Targeted Sanctions Effective: Guidelines for the Implementation of United Nations Policy Options* (Uppsala, Uppsala University Department of Peace and Conflict Resolution, 2003), paras. 66-105.

Working principles

41. The work of the Panel continues to be guided by the working principles of confidentiality, impartiality, transparency, and assessment of evidence on the basis of a substantial body of evidence considered "on the balance of probabilities".[5]

42. With regard to its internal working procedures and decision-making, the Panel agreed unanimously in February 2007 that it would adopt the following procedures. First, on procedural or process-related issues pertaining to its work, the Panel will make decisions by majority vote of its members. Second, regarding decisions on substantive issues under the mandated task areas of investigation/reporting of the Panel, the Panel will make decisions by majority, with the majority to include the consenting vote of the expert member to whose area of activity the substantive issue in question most closely pertains.

Provision of information on individuals

43. In its final reports under previous mandates (S/2006/65, S/2006/250 and S/2006/795), the Panel provided information on individuals in confidential annexes. In the present report, the Panel is providing information on individuals in two ways.

44. First, information on individuals who impede the peace process, who constitute a threat to stability in Darfur and the region, who are responsible for offensive military overflights or who violate the arms embargo is provided in the main body of this report. Recognizing that some individuals are participating in ongoing peace initiatives, but may also be undertaking acts that the Panel considers an impediment to peace or in violation of the arms embargo, the Panel is recommending some individuals for immediate designation and some individuals for possible designation, conditional upon future actions to be taken by the individuals ("conditional designation").

45. Second, information on individuals who commit violations of international humanitarian and human rights law is presented in a confidential annex to the present report. Biographical identifiers for both categories of individuals, as available, are provided in the confidential annex.

46. In addition, the Panel is providing in this report information on corporate/commercial entities that the Panel may recommend for designation by the Committee.

C. Working constraints

47. While executing its mandate, the Panel faced a number of working constraints, the most acute of which are described below.

Security and travel/access

48. The high level of insecurity in areas of Darfur at certain times resulted in the inability of the Panel to travel to certain areas at particular times. In this regard, the Panel conducted missions acting on the advice of the United Nations Department of

[5] These working principles are described in full in previous reports of the Panel of Experts (S/2006/65).

Safety and Security. Generally, restrictions on the Panel's travel owing to insecurity were only for a limited time. However, travel to a small number of areas of interest to the Panel, including Sirba in Western Darfur and the Dobo area (eastern Jebel Marra), was not possible during the mandate of the Panel.

49. Some areas in Darfur are not easily accessible by road owing to insecurity, difficult terrain and poor road and track conditions, especially during the rainy season (July-August). For many field missions the Panel travelled to remote or otherwise inaccessible areas by United Nations helicopter.

Travel to the Sudan and other regional States

50. The Government of the Sudan issued multiple-entry visas to the members of the Panel's team between January and March 2007, with a validity of three months (expiring for different members between April and June 2007). Following the presentation of the Panel's first interim report and its midterm briefing to the Committee in April 2007, the Panel's focal point within the Ministry of Foreign Affairs informed the Panel (following several requests for clarification from the Panel) that the Government of the Sudan had decided that it would henceforth revert to the previous procedure of providing single-entry visas to members of the Panel's team upon request. The refusal of the Government of the Sudan to issue multiple-entry visas after May 2007 constrained the Panel's movements into and out of the Sudan.

Recommendation 1
Multiple-entry visas to the Sudan

51. The Security Council should request that the Government of the Sudan provide multiple-entry visas, valid for the full duration of the Panel's mandate, to the Panel of Experts and additional members of the Panel's team.

52. The Panel wrote to several regional States requesting information to assist in the fulfilment of its mandate and proposing visits to the respective States to receive information and discuss the work of the Panel in more detail. The Panel proposed visits to Egypt, the Libyan Arab Jamahiriya, the Central African Republic, Eritrea, Kenya, the United Arab Emirates and Saudi Arabia. The Panel conducted visits to Kenya and the United Arab Emirates and received excellent cooperation from authorities in those countries.

53. At the time of writing this report, the Panel had still not received a response from the Governments of Saudi Arabia and the Central African Republic. Moreover, despite repeated requests to Egypt and Eritrea, it was not possible to converge with or receive a definite response from the concerned authorities to facilitate the desired visits. In the case of the Libyan Arab Jamahiriya, the Panel reiterated its request from early 2006 for a visit, but did not receive a response from the Government of the Libyan Arab Jamahiriya confirming the feasibility of the visit. The Panel views the inability to conduct visits to the Libyan Arab Jamahiriya, Egypt and Eritrea as a serious constraint to its work.

Recommendation 2
Visits by the Panel to the Libyan Arab Jamahiriya, Egypt and Eritrea

54. If the mandate of the Panel of Experts is extended, the Security Council/Committee should request the Governments of the Libyan Arab Jamahiriya, Egypt and Eritrea to facilitate visits by the Panel of Experts.

Personnel constraints

55. At the beginning of the mandate, the Panel consisted of five experts. One expert member could not continue after February 2007 and was not replaced. A second expert could not continue with the Panel after the beginning of June 2007, and was replaced by a consultant at the end of July 2007. From the outset, the Panel envisaged and requested from the United Nations Secretariat two consultants to assist in the fulfilment of its mandate. One consultant was recruited immediately at the beginning of the Panel's mandate, while a second consultant was engaged in July 2007.

Securing responses to requests for information

56. As part of its work, the Panel routinely requested information from Member States in the region and beyond. While the Panel received good cooperation and prompt responses to some of its requests for information, other Member States did not respond to the Panel's requests or failed to provide some of the requested information. That significantly hindered the work of the Panel. A catalogue of outgoing correspondence to Member States and the status of responses is included as annex V to the present report.

Recommendation 3
Responses to the Panel's requests for information

57. The Security Council/Committee should encourage Member States that have not responded to requests for information from the Panel of Experts, or that have provided incomplete information, to provide the requested information to the Panel or directly to the Committee.

D. Interactions with the Government of the Sudan and other key interlocutors

Cooperation with the Government of the Sudan

58. During the first five months of the Panel's work (January-May 2007) in the region, the Panel received relatively good cooperation from the Government of the Sudan in the areas of issuance of multiple-entry visas; the facilitation of meetings in Khartoum; and the provision of information. However, the level of cooperation diminished from May 2007 onwards, with the Government's refusal to issue multiple-entry visas to the Panel, its failure to facilitate important meetings requested by the Panel, and its insistence on more formal and complicated procedures for requesting and receiving information.[6]

[6] From early May 2007 onwards, many interlocutors within the Government of the Sudan referred requests from the Panel to the coordination mechanism.

59. Furthermore, at crucial moments the Government failed to provide support to the Panel. For instance, the Government of the Sudan refused to facilitate meetings with some key interlocutors (e.g. the Commander of the Sudanese Air Force), failed to establish mechanisms to facilitate visits to or inspection of military facilities by the Panel, and failed to provide all air traffic logbooks pertaining to airports in Darfur despite assurances that such information would be provided.

Interactions with other key stakeholders

60. The Panel had excellent and commendable cooperation from the United Nations Mission in the Sudan (UNMIS) both in Khartoum and Darfur. The Mission fulfilled most of the logistical requirements of the Panel. AMIS also played a key role in the success of the Panel's work. AMIS Force headquarters facilitated meetings with its sector commands throughout Darfur, and provided information to the Panel. The United Nations Development Programme greatly supported the Panel's work during the four missions the Panel conducted in N'Djamena and eastern Chad.

E. Concurrence of resolution 1591 (2005) with regional agreements and Security Council resolutions concerning Darfur

61. In conducting its work, the Panel identified a number of areas where the provisions of Security Council resolutions 1556 (2004) and 1591 (2005) interface or overlap partially with the provisions of other Security Council resolutions or agreements. Some of these areas of interface may require clarification by the Security Council and/or Committee.

Security Council resolution 1769 (2007)

62. In paragraph 9 of its resolution 1769 (2007), which authorized and established the African Union-United Nations Hybrid Operation in Darfur, the Security Council decided that,

> "... UNAMID shall monitor whether any arms or related material are present in Darfur in violation of the Agreements and the measures imposed by paragraphs 7 and 8 of resolution 1556 (2004)".

63. Furthermore, the Security Council, in subparagraph 5 (a) of resolution 1769 (2007), decided that UNAMID should establish an initial operational capability no later than October 2007, and in subparagraph 5 (c) decided that UNAMID should assume authority from AMIS as soon as possible, and no later than 31 December 2007.

64. In a note to the Panel of Experts dated 7 August 2007, the Chairman of the Committee requested information on how the Panel intended to coordinate its work with UNAMID in light of the aforementioned decision.

65. At the time of writing this report it is not known whether the mandate of the Panel of Experts will be extended beyond 29 September 2007, and if so, under what conditions. In light of this, the following observations and recommendations are offered on the basis of a scenario wherein the Security Council extends the Panel's mandate:

(a) The Panel of Experts currently has an information requesting/providing agreement with UNMIS (put in place in October 2005). The Panel of Experts would need to establish a similar agreement with UNAMID beginning in October 2007;

(b) UNAMID will not be in a position to "monitor whether any arms or related material are present in Darfur in violation of the Agreements and the measures imposed by paragraph 7 and 8 of resolution 1556 (2004)"[7] unless it can determine the originating source of these weapons, since the presence of arms and related material in Darfur does not in itself constitute a violation (under the provisions of Security Council resolutions 1556 (2004) and 1591 (2005));

(c) The Panel is currently mandated to coordinate its activities with the ongoing operations of AMIS. Presumably, with the incorporation of AMIS into UNAMID, the Panel should continue, especially after 31 December 2007, to coordinate its activities with the ongoing operations of UNAMID;

(d) UNAMID could focus its efforts pertaining to the implementation of resolution 1556 (2004) on information gathering, which could then be analysed by the Panel of Experts.

Recommendation 4
Interaction between the Panel of Experts and UNAMID

66. The Security Council should request that UNAMID regularly provide to any future Panel of Experts information in its possession or observations concerning the presence of military equipment and supplies in Darfur or the transfer into Darfur of such equipment and supplies.

Recommendation 5
Additional notification/approval procedures under arms embargo

67. The Security Council should specify additional exemptions to the provisions of resolution 1591 (2005) to permit the transfer into Darfur of military equipment and supplies by parties other than the Government of the Sudan and non-State armed groups operating in Darfur in support of UNAMID and the implementation of resolution 1769 (2007).

Tripoli Agreement of February 2006

68. The Panel observed and recorded the presence in Western Darfur during early 2007 of military aircraft from the Libyan Arab Jamahiriya reportedly engaged in the supply of Libyan forces deployed to Darfur to implement the Tripoli Agreement of February 2006. From a purely technical standpoint, the transfer of such military equipment and supplies constitutes a violation of the provisions of Security Council resolution 1591 (2005), although this is clearly not the intent of such deployments.

Recommendation 6
Notification/approval procedures related to regional agreements

69. The Security Council should establish additional notification or approval procedures — similar to those in paragraph 7 of Security Council resolution 1591 (2005) — to permit the deployment into Darfur of military equipment and supplies

[7] See Security Council resolution 1769 (2007), para. 9.

deemed to be essential for the implementation of Security Council-endorsed regional or other agreements (e.g., the Tripoli Agreement of February 2006).

F. Observations

70. This section presents general observations and recommendations concerning the work of the Panel and the Panel's reports to the Committee.

Recommendation 7
Interim reports of the Panel

71. During the current mandate, the Panel of Experts presented two interim reports to the Committee (March and June 2007). The Panel recommends that interim reports under any future mandate should be shared with the Government of the Sudan in the event that they are not issued as public documents of the Security Council.

Recommendation 8
Visit by Committee delegation to Darfur

72. Reflecting the practical proposals agreed by the Security Council in 1999 (S/1999/92), a delegation from the Committee may wish to consider undertaking a visit/mission to Darfur and eastern Chad.

IV. Monitoring implementation of the arms embargo

A. Overview

73. Throughout the reporting period, the Panel has gathered and received information indicating that arms, ammunition and vehicles continue to be shipped into Darfur by the Government of the Sudan and by individuals and foreign Governments supporting some, but not all, of the numerous non-State armed groups.

74. The Panel has conducted its investigations focusing equally on all parties covered by the provisions of Security Council resolutions 1556 (2004) and 1591 (2005). The Panel has communicated to all interlocutors that there are:

(a) Some provisions of the arms embargo that relate only to non-State armed groups (the provisions of resolution 1556 (2004) for the period July 2004 to 29 March 2005);

(b) Some provisions that relate to all parties to the conflict in Darfur (the provisions of resolution 1556 (2004) as expanded by resolution 1591 (2005));

(c) Some provisions that relate solely to the Government of the Sudan (the provisions of paragraph 7 of resolution 1591 (2005), stipulating the requirement for advance approval from the Committee).

B. Violations of the arms embargo: supply/transfer of arms and related materiel to non-State armed groups

75. The Panel endeavoured to obtain information relevant to the possible provision of arms and ammunition to non-State armed groups by Member States or through private individuals/companies operating in those countries. Meetings were held with senior military and Government officials, and letters, and follow-up letters as necessary, have been sent to the Member States in question. In many cases, responses have not been received by the Panel (see annex V). Some replies failed to provide the information requested.

76. The Government of the Sudan provided packing slips to the Panel detailing serial numbers of AKMC model AK-47s. The packing slips were reportedly seized from a non-State armed group following an engagement with the Sudanese Armed Forces (SAF).

77. Copies of the packing slips were provided to external technical experts for evaluation. It was their opinion that the packing slips were likely from the Russian Federation, but that they could not be attributed to a particular armoury, weapons warehouse or other packing facility. The weapons and associated equipment (bayonet, sling, magazines, cleaning kit, etc.) were packed in May 2006 and inspected by quality control personnel at the packing facility.

78. Initial correspondence from the Panel to the Government of the Russian Federation suggested the attribution of the serial numbers to a specific armaments factory and requested any additional information on the serial numbers. The response received denied any attribution to that factory. The purpose of these communications was to assist the Panel in identifying the proximate suppliers of the weapons to the non-State armed group. A follow-up letter, together with a copy of two packing slips, requested assistance in identifying the facility in which the weapons were packed and information relating to the purchaser and/or exporter. A response is pending at the time of writing this report (see annex V).

79. During the Panel's visit to Chad in July 2007, sources confidential to the Panel confirmed that the packing slips were part of an arms shipment received by Adam Bakhit, a non-State armed group commander, from Khalil Ibrahim Mohammed, leader of JEM, some months earlier in Northern Darfur.

80. The Panel has investigated allegations concerning the purchase by JEM of more than 3,000 AK-47 assault rifles, 3 unspecified model rocket launchers and an unspecified quantity of 23-mm anti-aircraft guns. These weapons are believed to have been bought in a Member State, which the Panel has contacted with a view to securing more information, and the Panel will await a response before providing further information to the Committee. It is further believed that the weapons were shipped through Eritrea and from there transported by air to N'Djamena and then eastern Chad for delivery to JEM. A trip to Asmara by the Panel to meet with Eritrean Government officials to follow up on the reports could not be facilitated by the Government of Eritrea.

81. The Panel met with leaders of several non-State armed groups, senior members of the Government of Chad, and representatives of the diplomatic community based in N'Djamena during the Panel's four missions to Chad. During those meetings, the Panel sought to gather information on individuals or organizations that may be

supplying arms and related materiel to non-State armed groups operating in eastern Chad or in Darfur. These interviews corroborated other sources of information to the Panel outside Chad, indicating that Daoussa Déby played a central role in the provision of support to non-State armed groups, including facilitating the provision of or directly providing weapons and military vehicles.

82. The Government of the Sudan showed the Panel a number of weapons allegedly seized from NRF in Darfur. Some of these weapons were manufactured at Israel Weapon Industries, a company based in Israel. The weapons included Tavor and Galil type weapons. In March 2007, the Panel wrote a letter to the Government of Israel requesting information that could assist the Panel in tracing the weapons from the company of manufacture, Israel Weapon Industries. At the time of writing the present report there has been no response from the company or the Government of Israel.

C. Violations of the arms embargo by the Government of the Sudan

83. Throughout the period of the Panel's mandate, the Government of the Sudan continued to ship small arms, heavy weapons, ammunition and other military equipment into Darfur by air, specifically into the airports located in El Geneina, Nyala and El Fasher.

Deployment of military aircraft to Southern Darfur

84. On 16 February 2007, the Panel provided a report to the Committee detailing the deployment of two Fantan A-5 ground attack aircraft (SAF registration Nos. 402 and 403) to the airport in Nyala, Southern Darfur, in early January 2007.[8] Subsequently, another Fantan A-5 (registration No. 410) was deployed to the same airport and was observed by the Panel on 26 February and 7 March 2007 (see fig. 3).

[8] Case report reference: 1591P/M4-2/0207.

Figure 3
SAF Fantan A-5 aircraft (registration Nos. 402, 403, and 410) Nyala Airport, 7 March 2007

85. Logbooks from Nyala Airport, provided by the Government of the Sudan, indicated that two of the A-5s arrived on 11 January 2007 from El Obeid and the third arrived on 30 January from Wadi Sayyidna.

86. Notwithstanding the retrospective notification by the Government of the Sudan to the African Union Ceasefire Commission on 26 February 2007 concerning the deployment of artillery pieces and military aircraft, the Government of the Sudan failed to submit an advance request to the Committee for deployment of such military equipment, as required by paragraph 7 of Security Council resolution 1591 (2005).

Deployment and operation of military attack helicopters in Darfur

87. The Panel observed that the Government of the Sudan Mi-24 "Hind" attack helicopters based in Darfur conduct flights on a regular basis. The Panel has observed several of these helicopters deploying from El Fasher Airport in Northern Darfur and has been informed of the same regarding Nyala Airport in Southern Darfur. Throughout the period of the Panel's mandate, on average, eight SAF Mi-24 helicopters were based in Darfur at any one time.

88. However, one of these helicopters (registration No. 932) was stationed in Khartoum in January 2007 and was deployed to El Fasher between 28 January and 26 February 2007 (see fig. 4). A second SAF Mi-24 helicopter (registration No. 913), was observed and recorded by the Panel at Khartoum International Airport on 28 February 2007 and subsequently observed at El Fasher on 7 August 2007 (see fig. 5).

Figure 4
Two images of SAF helicopter Mi-24 (registration No. 932)
top: Khartoum International Airport military apron, 28 January 2007
bottom: El Fasher Airport, 26 February 2007

Figure 5
Two images of SAF Mi-24 (registration No. 913)
top: Mi-24 #913 parked at Khartoum International Airport military apron, 28 February 2007
bottom: Mi-24 #913 parked at El Fasher Airport military apron, 7 August 2007

89. Several sources informed the Panel that SAF employs or contracts a foreign flight instructor for Mi-24 helicopters to train Sudanese Mi-24 pilots in El Fasher. The sources noted that this individual is of Ukrainian nationality, who has worked for SAF for several years, wearing a Sudanese military uniform without a rank when present at the military apron of El Fasher Airport. The Panel forwarded his name to the Government of Ukraine and requested further information concerning the individual.

90. The Sudan Civil Aviation Authority facilitated access by the Panel to the logbooks from El Fasher, Nyala and El Geneina airports covering various periods within the temporal scope of the mandate of the Panel.[9] The Panel used the information in the logbooks to assist in identifying possible violations of the arms embargo. The logbooks contain several entries noting the arrival of SAF Mi-24 helicopters in Darfur. The helicopters are assigned the SAF call sign "Shukran". The

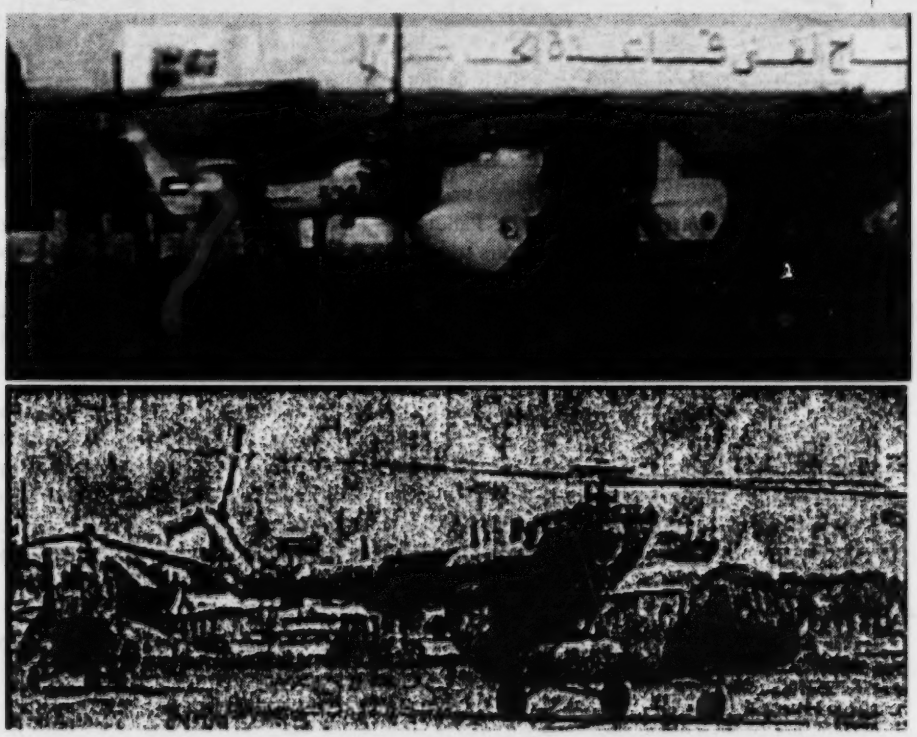
[9] The Government of the Sudan refused to furnish Darfur logbooks to the Panel after mid-February 2007.

logbooks contain details of nine SAF Mi-24 helicopters arriving at Darfur airports between September 2006 and February 2007. The Mi-24 helicopters arrived in Darfur on 2 September, 5 October, 20 October, 22 October, and 24 December 2006, and 24 January, 29 January, 4 February, and 12 February 2007. The Khartoum International Airport logbook notes that the two helicopters deployed to Darfur in January 2007 had departed from Khartoum.

91. The Panel has established that SAF primarily maintains its Mi-24 helicopters in Khartoum, and has determined that the deployment to Darfur of these helicopters, without prior approval from the Committee, constitutes a violation of paragraph 7 of Security Council resolution 1591 (2005). The provision of technical assistance and training associated with military equipment and supplies also constitutes a violation of resolution 1591 (2005).

92. The Panel also observed and recorded the deployment to Darfur of a camouflaged SAF Mi-8 helicopter (registration No. 534). The Panel observed this aircraft at Khartoum International Airport in February 2007 and subsequently recorded the operation of this helicopter at El Fasher Airport in August 2007 (see fig. 6). The Panel considers the deployment of this military transport/assault helicopter to Darfur, without prior approval from the Committee, to be a violation of paragraph 7 of Security Council resolution 1591 (2005).

Figure 6
Two images of SAF Mi-8 helicopter (registration No. 534)
top: Mi-8 #534 parked at Khartoum International Airport military apron, 26 February 2007
bottom: Mi-8 #534 departing from El Fasher Airport military apron, 6 August 2007



Military and police cargo flights to Darfur

93. The Panel of Experts gathered information and received a number of allegations concerning the movement of arms, military equipment and supplies by the Government of the Sudan to Darfur's three main airports: El Fasher, Nyala and El Geneina. Many of these allegations could not be substantiated directly by the Panel or by other sources owing to security concerns regarding the observation or documentation of military activities at these airports. The Panel was, however, able to confirm through two eyewitnesses that arms were unloaded from a crashed Antonov 12 (AN-12) aircraft in El Geneina in March 2007. The Panel also received a photograph of another AN-12 offloading suspected military equipment in El Geneina in July 2007.

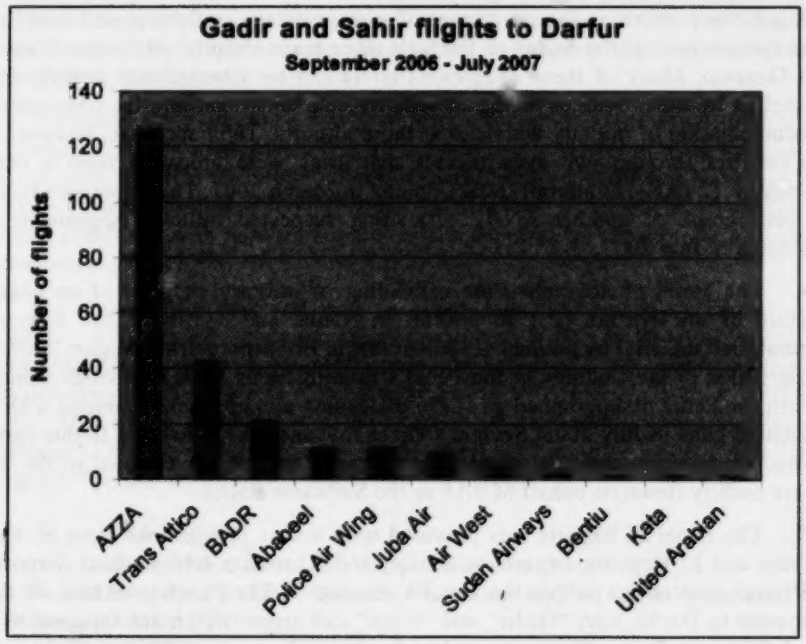
94. The Panel photographed the offloading of military supplies of an unknown nature by an Ilyushin (IL) 76 aircraft in Nyala, and confirmed the delivery of embargoed material by another IL-76 aircraft in El Fasher during August 2007. This data added to the findings of the Panel's investigations during previous mandates, when the Panel photographed an IL-76 offloading pickup trucks mounted with light machine guns in July 2006. Several sources informed the Panel that flights carrying arms, ammunition and related materiel to Darfur for the Government of the Sudan were usually flown on behalf of SAF or the Sudanese Police.

95. The Panel of Experts was provided with access to logbooks from El Fasher, Nyala and El Geneina airports in Darfur, and Khartoum International Airport, for different date ranges within the Panel's mandate.[10] The Panel examined all flights inbound to Darfur with "Gadir" and "Sahir" call signs, which are assigned to SAF and Sudanese Police flights, respectively. From September 2006 until the end of July 2007, the logbooks contain details of 409 flights arriving in Darfur for SAF and the Sudanese Police, 371 with Gadir call signs and 38 with Sahir call signs. The maximum possible combined load capacity of these civil registered cargo aircraft landing in Darfur has been estimated to be over 13,000 tons.

96. The Panel noted that many of these logbook entries did not include the aircraft's registration number, identifying the flight only by the military or police call sign. Other logbook entries, however, noted the aircraft's individual civil registration number, enabling the identification of the civil aviation company that leased the aircraft to the military or police. Although the same call sign usually remained with one particular aircraft, or a specific company, the Panel focused only on those flights for which the aircraft's registration is clearly noted in the logbooks. Of the 409 inbound flights with Gadir or Sahir call signs, the logbooks specifically identify the civil registration numbers of 230 aircraft, owned, leased or operated by 10 Sudanese civil aviation companies and the Sudanese Police Air Wing. Details of the activities of six of these companies and the Police Air Wing are provided in figure 7.

[10] The logbooks for Darfur cover only the period until mid-February 2007, while Khartoum International Airport logbooks cover the period from December 2006 to the end of July 2007, with significant gaps of several weeks.

Figure 7
Number of flights into Darfur using "Gadir" and "Sahir" call signs



Source: Sudan Civil Aviation Authority logbooks.

AZZA Transport

97. The logbooks provided to the Panel indicate that aircraft owned by AZZA Transport accounted for 126 military flights to Darfur during the period under examination.[11] AZZA Transport also leased aircraft from other companies, such as United Arabian Airlines and Trans Attico, for certain military flights.

98. The Panel has gathered evidence that aircraft owned or leased by AZZA Transport have flown arms to Darfur for SAF in violation of paragraph 7 of Security Council resolution 1591 (2005). The Panel requested documentation for all AZZA Transport flights to Darfur in an effort to determine the nature of cargo for military flights. The Managing Director of AZZA Transport informed the Panel on 12 August 2007 that aircraft owned or leased by the company have never transported arms to Darfur, and that flights with military call signs carried non-embargoed material for SAF. The AZZA Transport representative further informed the Panel that the company's aircraft had delivered spare parts for SAF jets in Nyala, which also constitutes a violation of resolution 1591 (2005).

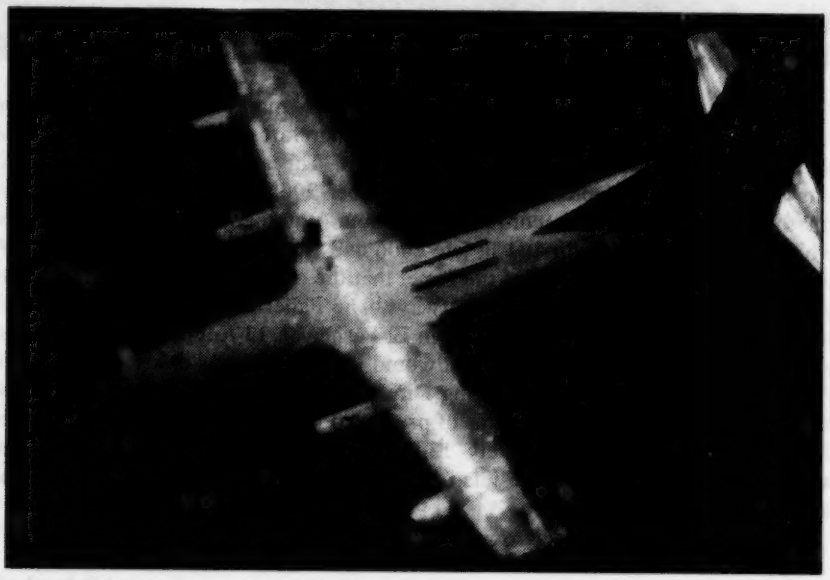
99. On 24 February 2007, a United Arabian Airlines AN-12, registered ST-AQE, operated by AZZA Transport, flew from Khartoum to El Geneina Airport, where it

[11] The aircraft cited most frequently are the following: IL-76 registered XT-FCB (serial number 1023408265), IL-76 registered ST-APS (serial number 1023409316), and AN-12 registered ST-ASA (serial number 402010).

crashed at 0909 hours. Witnesses interviewed by the Panel stated that the majority of the passengers were military personnel. In addition to the passengers there were two artillery howitzers and between 40 and 50 wooden boxes painted olive drab, suspected of containing arms and ammunition. The cargo was offloaded during the days following the crash under the supervision of SAF, members of which continued to guard the aircraft throughout the following week. The AZZA Transport representative interviewed by the Panel on 12 August 2007 confirmed that the flight was chartered to SAF.

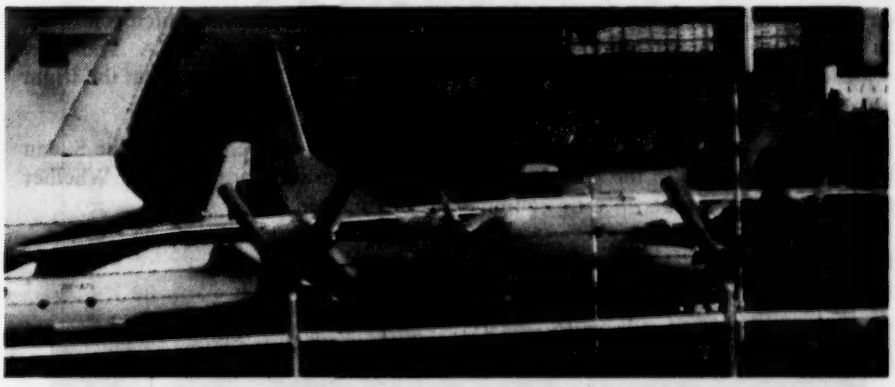
100. The delivery of artillery weapons is referred to in a Government of the Sudan letter of notification to the African Union received on 26 February 2007. Whether the letter pertains to this specific equipment is unknown.

Figure 8
AN-12 (ST-AQE) at El Geneina Airport, 28 February 2007



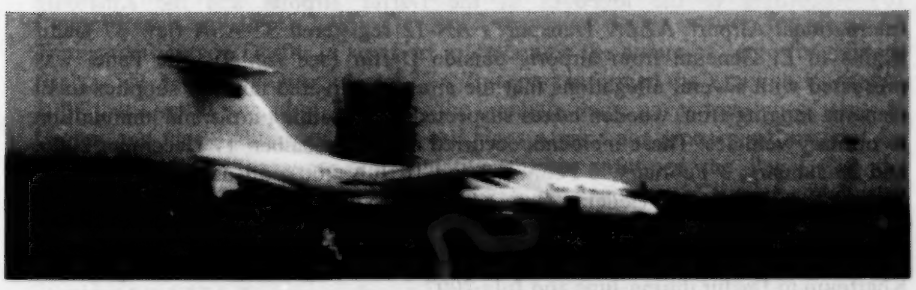
101. According to the logbooks of the Darfur airports and the Khartoum International Airport, AZZA Transport's AN-12 registered ST-ASA flew 57 Gadir flights to El Geneina from airports outside Darfur (see fig. 9). The Panel was presented with several allegations that the aircraft delivered military supplies to El Geneina ranging from wooden boxes suspected of containing arms and ammunition to military vehicles. These incidents occurred on 16 December, 17 December 2006, and 23 January, 3 February, 6 February, and 16 July 2007, all dates on which the aircraft had flown to El Geneina from Khartoum. The aircraft continues to operate exclusively from the Khartoum International Airport military apron, and its call sign, Gadir 201, remained one of the most active military call signs for flights from Khartoum to Darfur during June and July 2007.

Figure 9
AN-12 (ST-ASA) departing Khartoum International Airport military apron; next to it is AZZA Transport IL-76 (XT-FCB), 2 August 2007



102. One of AZZA Transport's IL-76 aircraft is marked with a Burkinabé registration, XT-FCB, and the Panel has noted this aircraft parked consistently at the military apron of Khartoum International Airport. The aircraft operated 13 Gadir flights to Darfur from September through October 2006, and remained in use for Gadir flights in April 2007, according to Khartoum International Airport logbooks. The aircraft operated as Gadir 101 in late 2006 and Gadir 350 in April 2007. AZZA Transport representatives informed the Panel that the company is still in the process of purchasing the aircraft from Faso Airways. The Panel witnessed SAF personnel offloading green boxes from the aircraft in El Fasher on 13 August 2007, but could observe no other details of the cargo that would verify it as arms or ammunition (see fig. 10). The AZZA Transport Managing Director informed the Panel on 18 August 2007 that the aircraft was carrying tins of preserved food, spare parts for the SAF jet aircraft in Nyala and approximately 150 SAF personnel. The Panel views the transfer of spare parts for the A-5 jets in Nyala to be a violation of paragraph 7 of Security Council resolution 1591 (2005).

Figure 10
IL-76 (XT-FCB) offloading military cargo, El Fasher Airport, 13 August 2007



103. Following use of the IL-76 registered XT-FCB, as Gadir 101, another AZZA Transport IL-76 (registered ST-APS) was assigned this call sign from late January 2007. The aircraft remains in use, with 12 Gadir flights recorded in April 2007 and the call sign assigned to its flights accounting for 15 flights from June through July

2007. The Panel has only observed this aircraft parked on the military apron at Khartoum International Airport. The Panel followed a specific flight of the IL-76 registered ST-APS from Khartoum International Airport's military apron to Nyala on 2 August 2007. The aircraft discharged cargo for SAF in Nyala, including at least one vehicle. The Panel was unable to confirm whether the cargo in the aircraft contained embargoed goods, but was able to photograph some of the offloading supervised by SAF.

Trans Attico

104. Trans Attico accounted for 40 Gadir flights and 2 Sahir flights from October 2006 through January 2007. The aircraft primarily used for these flights was initially registered EK-76705, and then re-registered ST-ATH, with serial number 0063472158. Trans Attico representatives informed the Panel on 5 August 2007 that the aircraft was "wet leased" by Trans Attico to AZZA Transport for these flights, and that their aircrews had verified that the cargo did not contain embargoed material. The Panel sought to obtain documentation for the cargoes of these Gadir flights, but neither Trans Attico nor AZZA Transport were willing to supply cargo manifests. Trans Attico representatives did brief the Panel on the aircraft's flights, and showed the Panel a list of the cargo.

105. The Panel observed several inconsistencies in the information provided by Trans Attico, which noted that the company's aircraft flew 19 Gadir flights, 1 Sahir flight and 16 flights with the company's civil aviation call sign after the aircraft was registered in the Sudan. The Darfur and Khartoum logbooks, however, show 40 Gadir flights and 1 Sahir flight by this aircraft to El Fasher and Nyala during this period, with the aircraft assigned military call signs Gadir 505 and Gadir 506 even after its registration was changed. Trans Attico representatives noted that the aircraft's flights delivered material to SAF, even after the aircraft started using a civil aviation call sign. According to the company's representatives, 10 of these flights carried over 300 tons of blankets for SAF within a three-week period, from late December 2006. Other flights carried 18 Landcruiser vehicles for SAF. The flights that the company acknowledged were flown with Gadir call signs to Darfur airports contained a combined cargo of 66 Landcruisers, 146 tons of blankets and 74 tons of general cargo.

Badr Airlines

106. The Panel's previous report dated 3 October 2006 (S/2006/795) contained a photograph of an IL-76 aircraft and Toyota pickup trucks mounted with light machine guns that the aircraft had offloaded at El Fasher Airport on 31 July 2006. The aircraft was registered ST-BDE (serial number 1013408252) and operated by Badr Airlines. According to the El Fasher logbook, the aircraft had arrived from Khartoum. The Panel noted previously that the delivery of armed pickup trucks is an embargo violation.

107. Further investigations of Badr Airlines during the Panel's current mandate revealed that the company continued to operate flights for both SAF and the Sudanese Police. Between 1 November 2006 and 14 April 2007, Badr Airlines operated eight flights with Gadir call signs and 13 with Sahir call signs to Darfur. Two sources informed the Panel that the Sudanese Police transfer arms to Darfur on Sahir flights. The Panel views any transfer of military equipment or related materiel

to Darfur by the Sudanese Police without prior notification of the Security Council to be an embargo violation.

108. The Panel delivered a letter to Badr Airlines requesting details of these flights, including cargo manifests, and also contacted a representative of Badr Airlines on several occasions at the end of the mandate to request a meeting. The Panel never received a response from Badr Airlines.

Ababeel Aviation

109. Ababeel Aviation aircraft operated 11 Gadir and Sahir flights from 2 November through 22 December 2006. The aircraft that accounted for these flights are the following: IL-76 registered ST-WTA (serial number 1023410355), IL-76 registered ST-WTB (serial number 1003499994, registration formerly UN-76009) and AN-26 registered ST-ARL (serial number 2606).

110. The Panel requested all cargo manifests for Ababeel Aviation flights to Darfur and met with a company representative on 5 August 2007 to discuss the issue. The Panel was provided with a list of the company's flights to Darfur. None of the Gadir and Sahir flights by Ababeel Aviation aircraft noted in the Darfur airports and Khartoum International Airport logbooks are referenced in the documentation Ababeel Aviation provided to the Panel. Three cargo manifests provided by Ababeel Aviation do mention military cargo: 19 tons from Khartoum to El Fasher on IL-76 registered ST-EWX (aircraft leased from Air West), with Ababeel Aviation civil aviation flight number BBE 900 on 1 September 2006; 10 tons from Khartoum to El Fasher on IL-76 registered ST-WTA, flight number 700A on 16 February 2007; and an undeclared weight of cargo from Khartoum to El Fasher on IL-76 registered ST-WTA, flight number BBE 800 on 29 June 2007. The Ababeel Aviation representative insisted that the cargo for these flights did not consist of embargoed material, and was probably military uniforms and mattresses. The representative further informed the Panel that Ababeel Aviation could not fly with a Gadir call sign due to the company's status as a civil aviation operator. The representative denied any knowledge of Gadir or Sahir flights to Darfur by Ababeel Aviation aircraft referenced in airport logbooks.

Police Air Wing

111. The Sudanese Police Air Wing's AN-32 registered ST-PAW accounted for 11 Sahir flights to Darfur between January and March 2007. The aircraft is registered with the Sudanese Civil Aviation Authority, but is also marked with a police tail number, 203. The aircraft is based at Khartoum International Airport at the Police Air Wing hangar. It is not known whether the aircraft transported embargoed material to Darfur, but two aviation sources in Khartoum informed the Panel that the Sudanese Police has requested private Sudanese companies to fly arms to Darfur.

Juba Air Cargo

112. Juba Air Cargo operated nine Gadir flights to Darfur from 15 January through 7 February 2007, using the company's AN-12 registered ST-JUA (serial number 3341110). The Panel witnessed SAF soldiers boarding the aircraft at the Khartoum International Airport military apron on 15 January (see fig. 11). The Panel asked the company about this flight on 13 August 2007, and the Operations Manager confirmed that the soldiers were flown from Khartoum to El Geneina, but that any

of the soldiers' personal firearms would have been stored in the cockpit for safekeeping during the flight. The Juba Air Cargo representative informed the Panel that the company was unable to furnish cargo manifests for the Gadir flights in January 2007 because the aircraft was flying for the military and was wet leased by AZZA Transport.

Figure 11
IL-76 (ST-ATH) parked on the military apron at Khartoum International Airport, with ST-JUA pictured in the background, 15 January 2007

113. The Panel also requested documentation from Juba Air Cargo for a flight of AN-12 registered ST-ARN from Khartoum to Darfur on 7 August 2007. The Panel witnessed the final stages of the ground crew offloading two police vehicles and other cargo at El Geneina Airport. Some of the cargo, including boxes on the right side of the aircraft and other unidentifiable objects loaded in the back of one of the police vehicles, did not appear on the cargo manifest. The Panel cannot verify the nature of the unidentified cargo, but saw no evidence that the camouflaged police vehicles were armed (see fig. 12).

Figure 12
AN-12 (ST-ARN) offloading cargo at El Geneina, 7 August 2007

Air West

114. Air West operated five Gadir flights to El Fasher and Nyala between 10 and 20 October 2006. Three of the company's aircraft accounted for these flights using a Gadir 300 call sign: IL-76 registered ST-EWD (serial number unknown), IL-76 registered ST-EWX (serial number 1013409282), and IL-76 registered ST-AWR (serial number 0033447365). Air West representatives were not available for a meeting while the Panel was in Khartoum, prior to drafting the final report.

D. Supply of aviation fuel for military purposes

115. The Panel has in this and previous reports presented its findings that SAF military attack helicopters (Mi-24) and Antonov aircraft have been used in offensive air operations, including in aerial bombardments and air-to-ground missile attacks (see sect. VII). The Government of the Sudan has acknowledged the use of certain aircraft for offensive purposes.

116. There are two main suppliers of jet aviation fuel to aircraft operating in Darfur: Matthews Petroleum Company (a Sudanese corporation) and Petronas (a corporation wholly owned by the Malaysian Government). The Panel observed and recorded the supply of aviation fuel to SAF military attack helicopters operating in Darfur by Matthews Petroleum Company (see fig. 13). This fuel is transported into Darfur from other parts of the Sudan. Matthews Petroleum Company is owned and operated by Egyptian nationals, and is headquartered in Khartoum. It also has a contract to supply jet aviation fuel to AMIS.

Figure 13
Fuelling of SAF Mi-24 military attack helicopter from Matthews Petroleum Company fuel storage tanks in El Geneina
(section removed for purpose of protecting confidentiality)

117. Jet aviation (A-1) fuel used for military purposes constitutes an essential military supply, whose movement into Darfur in the absence of approval from the Committee on the basis of a request by the Government of the Sudan constitutes a violation of paragraph 7 of Security Council resolution 1591 (2005).[12]

[12] Regarding the classification of fuel as a military supply: the International Committee of the Red Cross Draft Rules for the Limitation of Dangers incurred by the Civilian Population in Time of War (1956) sought to identify legitimate military objectives in order to differentiate them from illegal civilian targets. The Draft Rules included a list compiled by ICRC and military experts, which was presented as a model. One category of legitimate military objectives is: "Stores of arms or military supplies [sic], such as munition dumps, stores of equipment or fuel, vehicles parks [sic]". Furthermore, NATO defines supplies to include, "... all materiel and items used in the equipment, support, and maintenance of military forces". On this basis, the term military supplies has been taken to include military fuel.

118. The Government of the Sudan has violated the provisions of paragraph 7 of resolution 1591 (2005) by failing to request advance approval from the Committee for the movement of aviation fuel for military purposes into Darfur, whether that fuel is moved by the Government itself or private entities such as the Matthews Petroleum Company operating in the Sudan.

119. Moreover, in its resolutions 1556 (2004) and 1591 (2005), the Security Council decided that all States shall take the necessary measures to prevent the sale or supply, to [all the parties to the N'Djamena Ceasefire Agreement and any other belligerents] in the states of Northern Darfur, Southern Darfur and Western Darfur, by their nationals or from their territories, of arms and related materiel of all types. Therefore, all States are obliged to prevent the sale and supply of military fuel to parties to the conflict in Darfur, including by their nationals or from their territories.

E. Observations and recommendations

120. In the light of the ongoing violations of the arms embargo, the Panel reiterates its previous recommendations that the Security Council revisit options for strengthening the arms embargo submitted by the Panel in its previous reports, including provisions pertaining to: (a) expansion of the arms embargo to the entire territory of the Sudan (potentially with targeted exemptions) (see S/2006/250, para. 60); (b) verification of arms and ammunition (see S/2006/795, para. 90); (c) end-use certification (see S/2006/795, para. 91); and (d) restrictions on dual-use items (see S/2006/250, para. 63).

121. In addition to the requests made of the Government of the Sudan in the Panel's letter of 29 April 2007, the Panel continues to seek the cooperation of the Government in availing the ability to monitor, in pursuit of its mandate and at the Panel's discretion, aircraft cargo transferred to Darfur that are suspected to contain military equipment and supplies.

Recommendation 9
Prohibition on the sale or supply of arms to non-State armed groups located in or operating from Chad

122. The Security Council should establish a prohibition on the sale and supply of arms and related materiel to non-State armed groups located in or operating from Chad (similar to the original provisions of resolution 1556 (2004), as they apply to Darfur).

Recommendation 10
Designation of individuals who violate the arms embargo

123. The Security Council or Committee should consider Khalil Ibrahim Mohammed for designation as an individual who violated the arms embargo and thereby constitutes an impediment to peace and a threat to stability in the region.

124. On the basis of its findings presented in previous reports and confidential annexes, substantiated in the current mandate, the Security Council or Committee should consider designating Daoussa Déby as being subject to the measures in subparagraphs 3 (d) and 3 (e) of resolution 1591 (2005) because of his support to non-State armed groups based in or operating from eastern Chad.

Recommendation 11
Supply of military aviation fuel

125. The Security Council or Committee should demand that all States take the necessary measures to prevent the sale or supply, by their nationals or from their territories, of aviation fuel for military aircraft of the Government of the Sudan operating in Darfur.

Recommendation 12
Aviation-related sanctions

126. In the light of the use of Sudanese Civil Aviation Authority registration numbers on SAF aircraft in military operations, it is recommended that the Committee review, for possible implementation, the aviation ban options available in the report entitled *Design and Implementation of Arms Embargoes and Travel and Aviation-related Sanctions: Results of the Bonn-Berlin Process*.[13]

Recommendation 13
Aviation ban on select air companies/operators

127. The Panel recommends that an aviation ban be imposed on Ababeel Aviation, AZZA Transport, Badr Airlines, Juba Air Cargo, Trans Attico and United Arabian Airlines, and that all States take measures to deny permission to any aircraft to take off from, land in, or overfly their territory if that aircraft is owned, leased, controlled by or operated on behalf of these companies. The Panel further recommends the immediate and complete closure of all the companies' offices, and a ban on the directors and shareholders of these companies from establishing new aviation companies or purchasing or leasing aircraft.

V. Customs and border control measures

A. Overview

128. The Darfur region borders the Libyan Arab Jamahiriya, Chad and the Central African Republic. In Darfur, the Customs Authority maintains a presence only in the urban areas of Nyala, El Fasher and El Geneina, thus providing extremely limited border control to the whole region of Darfur. Similarly, customs officials in Chad operate in quite limited locations along the border. The paucity of customs control allows for unhindered cross-border movement of persons, arms, and other goods. Most arms flowing into the region are not produced or manufactured in the region. These arms, and associated ammunition, are exported by, transferred by, or trans-shipped through States in the region and beyond.

B. Regional customs and border control

129. In regions of the Sudan other than Darfur and southern Sudan, the Customs Authority has made significant efforts to prevent weapons from entering the country

[13] Bonn International Center for Conversion in cooperation with the Auswärtiges Amt (German Foreign Ministry) and the United Nations Secretariat, ed. Michael Brzoska (Bonn, 2001).

with a possibility of ending up in Darfur. The Customs Authority has reported seizures of large quantities of weapons from neighbouring countries, including Egypt and Eritrea. Some of these seized weapons are modified starter pistols, but they can cause the same effect as in the original form. The Panel has established that there is great potential for an internal market for arms and ammunition in the Sudan. This facilitates the acquisition and transfer of weapons to Darfur.

130. During the current mandate, the Panel observed a remarkable increase in hijackings of vehicles from UNMIS, AMIS and non-governmental organizations in Darfur. Some hijacked vehicles are taken elsewhere to be modified, including by repainting, and subsequently sold in Chad or, less frequently, in Niger. The sale of hijacked vehicles has become a source of revenue for some non-State armed groups operating in Darfur. The lack of border control between Darfur and neighbouring States has compounded the situation.

131. The Panel has received information of non-State armed groups illegally levying "taxes" on commercial entities trading between the Libyan Arab Jamahiriya and the Sudan. Effected businessmen are forced to pay the "tax" to non-State armed groups to guarantee safe passage of their goods from the Libyan Arab Jamahiriya to the Sudan. Such taxation has provided a source of income for non-State armed groups to sustain their operations.

132. The Panel has confirmed instances of non-State armed groups and the armed forces of Chad and the Sudan freely moving across the border between the two countries. In April 2007, Chadian forces conducted an incursion into the region of For Baranga (south of El Geneina, in Western Darfur) that led to an armed engagement between Chadian and Sudanese forces, resulting in the death of 17 SAF soldiers. This incursion was subsequently acknowledged by both Governments.

133. In a meeting in March 2007, representatives of the Government of Chad acknowledged that Chadian military deserters on occasion escape with their weapons and travel to Darfur. The Panel met with and interviewed some such Chadian military deserters in Nyala, Southern Darfur, in February 2007.

C. The arms embargo and international border control

134. The packing slip case investigated by the Panel, mentioned in section IV.B above, indicated a transfer of up to 800 weapons to Darfur. Weapons were distributed to commanders in Darfur, some of whom the Panel interviewed. These weapons came from a State outside the Sudan, believed to be the Russian Federation. This case provides an example of a Member State serving as a trans-shipment point for weapons that eventually enter Darfur.

135. During a visit to the airport in Abéché, Chad, the Panel observed cargo being unloaded from an AN-12 aircraft (registration No. UN-11006). The Panel believed the cargo to be arms and ammunition. Sources working in the area described such unloadings as a routine event and noted that that particular aircraft had been flying into and out of the Abéché airport for several weeks. Weapons arriving in Abéché have a great potential to enter Darfur, as there is no border control in the area. On 22 June 2007, a letter was sent by the Panel to the Republic of Kazakhstan, the country of registry. Correspondence received in response to that letter on 21 August 2007 from the Government of Kazakhstan stated that GST Aero had ceased its

activities as of 30 November 2006 and no longer appeared in the list of active airlines of the Republic of Kazakhstan. Ownership of the AN-12 with State registration and identification mark UN-11006 was transferred to the company Aviakom of the Russian Federation. Aviakom re-registered the aircraft on 11 December 2006, and it was given the registration and identification mark UN-11007. From 21 December 2006 to the present, the aircraft has been operated by the company East Wing, of the Russian Federation. In the light of this new information, the status of UN-11007 and UN-11006 must be clarified with the Russian Federation since an AN-12 aircraft with a Republic of Kazakhstan registration and the identification mark UN-11006 and GST Aero marking was observed by the Panel at Abéché airport in Chad on 25 May 2007.

136. As part of its ongoing investigation regarding the activities of UN-11006, the Panel met with two senior generals of the Chadian Ministry of Defence on 27 July 2007. They stated they knew nothing about the aircraft or its presence in the country, despite their confirmation that aircraft can neither enter Chadian airspace nor land in Chadian territory without prior Government approval. The registration details were provided to them and they indicated they would investigate and respond to the Panel. Follow-up inquiries by the Panel on 2 and 16 August 2007 had negative results. The Panel will correspond with the Government of Chad before the termination of the current mandate, requesting information to assist in its ongoing investigations relating to this case.

137. The Panel investigated the supply to non-State armed groups, including the JEM and SLA factions, of Toyota Landcruisers mounted with light machine guns, having seen many such vehicles in Abéché, Chad, and around Darfur. The Government of the Sudan seized a number of these Landcruisers from various non-State armed groups. The Panel wrote several letters to several Member States, including Japan and the United Arab Emirates, requesting information to assist in tracing the suppliers and purchasers of these Toyota Landcruisers. At the time of writing this report, the Panel is pursuing its investigations relating to these vehicles, using some information provided by Member States to inform its investigations.

D. Observations and recommendations

Recommendation 14
End-use certification

138. Member States that export or supply arms, military equipment or supplies to the Sudan should be required to insist on the provision of end-use certification by the Government of the Sudan that would indicate the intended primary location of use of the equipment and supplies.

Recommendation 15
Capacity-building and technical assistance for enhanced border control

139. States bordering Darfur, and other regional States, should be supported through capacity-building in border control measures and with technical assistance. In order to be eligible for such support, States should demonstrate a willingness to implement the arms embargo and other related provisions of Security Council resolutions.

Recommendation 16
Implementation of regional initiatives

140. The Security Council should consider and support regional initiatives that are aimed at improving the border situation between Darfur and neighbouring States. For example, the Security Council should insist on the implementation of the Tripoli Agreement of February 2006.

Recommendation 17
Role of the African Union-United Nations Hybrid Operation in Darfur along the Chad-Sudan border

141. As part of the deployment plan of the African Union-United Nations Hybrid Operation in Darfur, the Security Council should deploy forces along the Chad-Sudan border (on the Sudanese side of the border), with the purpose of monitoring the cross-border movements of non-State armed groups and any arms, military equipment and supplies.

VI. Monitoring implementation of targeted financial and travel-related sanctions

A. Overview

142. This section serves to present the findings and recommendations of the Panel concerning implementation of (a) the measures in subparagraphs 3 (d) and 3 (e) of resolution 1591 (2005), concerning targeted financial and travel-related sanctions; and (b) Security Council resolution 1672 (2006), wherein the Security Council designated four individuals as subject to targeted sanctions.

B. Findings

Individuals designated under Security Council resolution 1672 (2006)

143. The Panel gathered information indicating that one of the individuals designated in Security Council resolution 1672 (2006), a retired Major General of the Sudanese Armed Forces and former Western Area Military Commander, spells his name as "Gaffer Mohmed Elhassan", instead of "Gaffar Mohamed Elhassan", as written in the resolution. His date of birth is 24 June 1953. This information was circulated by the Committee to Member States to facilitate easy identification by the competent authorities entrusted with the task of enforcing the travel ban and the freezing of assets.

144. The Panel also gathered and verified information that NMRD, the organization led by Gabril Abdul Kareem Badri, another individual designated in resolution 1672 (2006), is actively engaging with other non-State armed groups in the Chad-Sudan border area. Gabril is believed to be living in Chad and is also known as General Gibril Abdul Kareem Barey. The Panel received a photograph of him, and provided it for circulation by the Committee to Member States, along with the variant of the individual's name, for easy identification by the competent authorities enforcing the travel ban and the freezing of assets in these States.

145. Further, the Panel received information that Sheikh Musa Hilal, designated in resolution 1672 (2006), continues to act in a manner that impedes the peace process in Darfur, despite assurances to the contrary regarding the implementation of resolution 1672 (2006) by the Government of the Sudan.

146. The Panel has not been able to verify any additional information concerning Adam Yacub Shant, and his nationality remains in question. During discussions with the Panel, officials of the Governments of the Sudan and Chad have denied that he is a citizen of either country.

Implementation of resolution 1672 (2006) by the Government of the Sudan

147. During the Panel's initial meetings with representatives from the Ministry of Justice of the Government of the Sudan in early 2007, the Panel was informed that resolution 1672 (2006) had not yet been implemented by the Government. The Minister of Justice explained that a committee had been established to consider aspects of the resolution's implementation in order to avoid any conflict with the provisions of the Constitution of the Sudan, particularly the bill of rights guaranteed to Sudanese citizens.

148. In a subsequent communication to the Committee, dated 13 June 2007, the Government of the Sudan confirmed that two of the individuals designated under resolution 1672 (2006) — Gaffar Mohamed Elhassan and Musa Hilal — had not left the Sudan following the adoption of the resolution, and that their bank accounts are not being monitored. The communication stated that the former is a retired officer with an inconsiderable account in Sudanese banks and the latter is a Bedouin nomadic leader. The Government of the Sudan also reiterated that the other two of the four designated individuals are not Sudanese nationals, and the Government considers them rebels, with whereabouts unknown.

149. The Government of the Sudan is not fully implementing Security Council resolution 1672 (2006), despite the lapse of a considerable amount of time since the adoption of the resolution. As two of the four designated individuals are not Sudanese nationals, implementation of resolution 1672 (2006) should not create any constitutional challenges for the Sudan.

150. The aforementioned committee of the Government of the Sudan has been constituted for some time, yet the Panel has not been able to secure from the Government of the Sudan information concerning the work or findings of the committee.

Implementation of resolution 1672 (2006) by the Government of Chad

151. No reports on further developments on the implementation of resolution 1672 (2006), if any, are forthcoming from the Government of Chad. The Panel visited Chad in February 2007, and met with the Minister of Justice, who claimed that, although he had heard about the resolution, he had not seen the document. He confirmed that the resolution was not being implemented by the Government of Chad. The Panel provided a copy of the resolution to the Minister, who assured the Panel that he would oversee its implementation. During a visit of the Panel to Chad on 16 August 2006, under the Panel's previous mandate, a copy of the resolution had been provided to the then-Minister of Justice, as he, too, had claimed not to have received the resolution.

152. The Government of Chad has taken very limited steps to implement Security Council resolution 1672 (2006). During the Panel's visit to N'Djamena in July 2007 the Panel was informed by representatives from the Ministry of Defence that instructions had been sent to police stations throughout Chad relating to procedures for implementing the provisions of Security Council resolutions 1591 (2005) and 1672 (2006).

C. Observations and recommendations

153. In addition to providing observations and recommendations relating to the enhancement of the implementation of the provisions of Security Council resolution 1591 (2005) governing financial and travel-related sanctions, this section provides recommendations in response to a request dated 7 August 2007 from the Chairman of the Committee to the Panel for suggestions on mechanisms that could be used to freeze financial and logistical support provided to non-State armed groups by individuals living in Europe, the Middle East and East Africa.

154. With a view to facilitating effective implementation of resolution 1672 (2006), and acting on a recommendation of the Panel in a previous report (S/2006/795), a note verbale dated 24 November 2006, followed by reminders, was sent by the Committee to all Member States, encouraging them to provide the Committee with relevant additional identifiers for the designated individuals. The Committee also circulated among Member States a photograph, supplied by the Panel, of one of those individuals. However, no information on additional identifiers has been received from the Member States, including the Governments of the Sudan and Chad.

155. In reference to the guidelines adopted by the Committee in March 2006, the Committee received no requests either to remove the names of individuals on the consolidated travel ban and assets freeze list or for exemptions to the targeted sanctions. The Panel believes that undue delay in the implementation of the resolution by Member States, particularly the Governments of the Sudan and Chad, will frustrate the objective of the resolution.

156. The Panel received information about financial and logistical support being provided to non-State armed groups in Darfur by individuals, including members of the Sudanese diaspora living in Europe, the Middle East and East Africa. The Panel sought information from Member States, including Chad, Eritrea and the Libyan Arab Jamahiriya, on specific individuals allegedly providing financial support to these non-State armed groups in Darfur. The Panel is in the process of following up with these States, and with the Egmont Group, the Middle East and North Africa Financial Action Task Force in Bahrain, and certain banks in the United Arab Emirates.

157. Security Council resolution 1591 (2005) imposes an obligation on Member States to take action regarding assets of designated persons only, not all those who violate the provisions of resolution 1591 (2005), even those who provide financial and logistical support to the non-State armed groups. The Panel has, in this and previous reports, identified individuals who impede the peace process through the provision of support to non-State armed groups engaged in ongoing hostilities (category V of acts that impede the peace process outlined in annex II).

Recommendation 18
Designation of individuals providing support to non-State armed groups

158. The Security Council or Committee should designate individuals or entities identified by the Panel or by other sources to be impediments to peace based on the provision of logistical and/or financial support to non-State armed groups as subject to the measures imposed in subparagraphs 3 (d) and 3 (e) of Security Council resolution 1591 (2005).

159. One such individual who the Panel has identified as providing support to non-State armed groups in Darfur is Suliman Bishara, believed to reside in the United Arab Emirates, who has provided financial and logistical support to these groups.

Recommendation 19
Mechanisms for freezing financial support

160. The Panel proposes the following mechanisms for freezing financial and logistical support on the basis of principles established by the Financial Action Task Force (FATF) 40 recommendations and the 9 special recommendations on terrorist financing, the 1988 Vienna Convention, the Palermo Convention against Transnational Organized Crime, and the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism:

(a) All countries, particularly those in the region, including the Sudan and Chad, should be encouraged to ratify and implement the above Conventions and recommendations, and to adhere to other applicable provisions, such as those in the 1990 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and the 2002 Inter-American Convention against Terrorism;

(b) Intelligence-gathering and investigation, identification, tracing and evaluation of individual remittances to Darfur and the region. The properties of designated individuals who deal in the transfer of arms and are found to perpetrate violent acts should be identified, as should the financial proceeds, be seized and frozen, to prevent further dealing, transfer or disposal;

(c) Member States should adopt and enact legislation that allows transmission of money or value, including transmission through an informal money or value transfer system or network that should be licensed or registered and, on production of requisite evidence, such proceeds or instrumentalities should be confiscated without requiring a criminal conviction;

(d) Tracking and reporting of alternative remittances, such as hawala, wire transfers, cash couriers and overinvoicing/underinvoicing, should be facilitated by banks and financial institutions through risk assessment techniques;

(e) Member States should assist with requests for information from sanctions Committees or expert panels, and should not refuse such requests on grounds of confidentiality in fiscal matters or privacy of individuals;

(f) Financial institutions and banks should exercise due diligence and record-keeping, implementing the "know your customer" (KYC) guidelines, in addition to tracking and reporting fictitious names, name-lender companies and dubious non-governmental organizations;

(g) All domestic and international transactions above a fixed amount should be reported to national centralized databases that should be shared not only between the various financial investigation units, but also internationally, with the United Nations for implementation of sanctions;

(h) The Security Council should institute a nodal financial registry for all arms transactions and dealings by countries and individuals, and make it incumbent on banks and countries to report and implement sanctions;

(i) The World Bank and the International Monetary Fund should require all banks facilitating arms transactions to adhere to the Core Principles for Effective Banking Supervision issued by the Basel Committee on Banking Supervision; the Objectives and Principles for Securities Regulation issued by the International Organization of Securities Commissions; and the Insurance Supervisory Principles issued by the International Association of Insurance Supervisors;

(j) Banks should introduce an automated computerized database and have effective gateways to facilitate international cooperation through the prompt, transparent and constructive exchange of information and implementation of asset freezes subject to privacy safeguards.

VII. Offensive military overflights

A. Overview

161. This section presents the findings and recommendations of the Panel relating to offensive military overflights in Darfur and individuals responsible for such overflights.

162. The Panel has reviewed the categories for acts that constitute offensive military overflights for the purpose of guiding the Panel's provision of information to the Committee on this matter. The categories include:

(a) Disproportionate use of aircraft beyond that required to neutralize a clear and imminent threat;

(b) Unprovoked attack with aircraft, such as strafing or bombing of villages;

(c) Use of aircraft in support of ground operations preparing for or engaging in an attack;

(d) Retaliatory attack, i.e. action in response to a prior attack;

(e) Flights that deposit troops for participation in an attack;

(f) Operation of aircraft in a manner to intimidate, frighten, or harass; for example, flying mock attack runs, circling over an area for a considerable period of time, destroying buildings with rotor wash, generating sonic booms, etc.

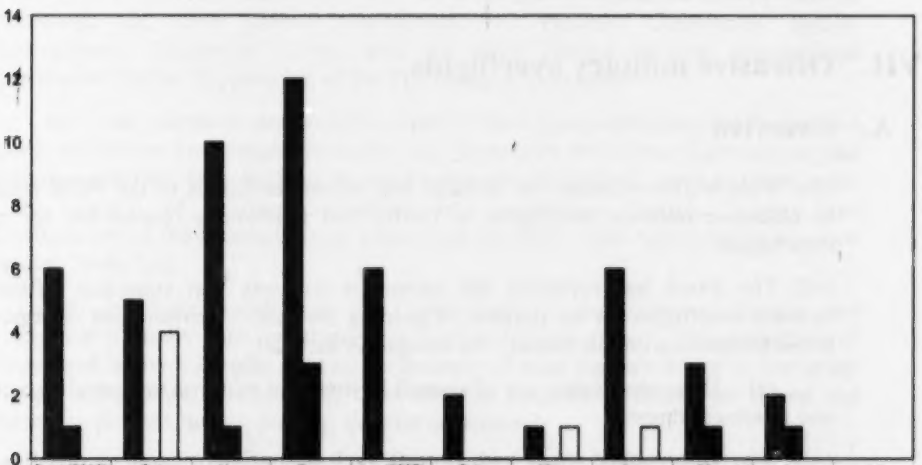
B. Findings

163. The Panel has gathered and analysed information relating to the conduct of offensive military overflights in Darfur by the Government of the Sudan using Mi-24 attack helicopters and AN-26 aircraft. These aircraft were used extensively

throughout Darfur in ground attack and aerial bombardment roles using machine guns and anti-personnel rockets, and fragmentation bombs, respectively. The Panel has catalogued 66 reported incidents of aerial attack during the period September 2006 to July 2007, of which 24 were confirmed.[14] The frequency and geographical spread of the aerial attacks is shown in figure 14 and figure 16.

164. The aerial attacks peaked in December 2006, with a total of 15 reported incidents. The attacks tapered off in the first quarter of 2007, owing in part to the commitment by the Government of the Sudan not to attack the non-signatory factions gathered for unification consultations in Umm Rai and other locations in Northern Darfur. In April and May 2007, the Government of the Sudan resumed an extensive series of aerial attacks, mostly in Northern Darfur. The use of air assets during offensive military operations in Southern Darfur during May 2007 accounted for the rise in the number of reported incidents in that month.

Figure 14
Trends in aerial attacks in the states of Northern, Southern and Western Darfur, September 2006 to July 2007



	Sept (2006)	Oct	Nov	Dec	Jan (2007)	Feb	Mar	Apr	May	Jun	Jul
Northern Darfur	6	5	10	12	6	2	1	6	3	2	0
Southern Darfur	1	0	1	3	0	0	0	0	1	1	0
Western Darfur	0	4	0	0	0	0	1	1	0	0	0

165. As an example of one such series of attacks, during the period 19 April to 1 May 2007, a number of villages in Northern Darfur, including Umm Rai, Anka, Hashaba, al-Jirah, Um Hosh and Birmaza, were attacked by AN-26 aircraft and Mi-24 attack helicopters. Those attacks, particularly those affecting Umm Rai village, are described in more detail as a case study in section VIII.D below.

[14] Aerial attacks identified here as "confirmed" have been verified by at least two independent, reliable sources, or have been verified by the Panel of Experts during the Panel's missions throughout Darfur.

166. The Panel visited the village of Umm Rai on 10 May 2007, and observed the damage incurred from the AN-26 and Mi-24 attacks. The village area was inundated with bomb craters and bullet holes; anti-personnel flechettes from the Mi-24 rockets were found throughout the village, in particular on the school grounds (see fig. 15). The Panel also visited the site of a crashed SAF Mi-24 north of Umm Rai. Based on the debris pattern, the Panel concluded that the helicopter was shot down while transiting at low altitude, not hovering, as reported by Government of the Sudan authorities. The remains of a member of the aircrew found in the wreckage were removed and buried in close proximity to the crash site.

Figure 15
Anti-personnel flechettes from Mi-24 rocket recovered from the Umm Rai school grounds, 10 May 2007

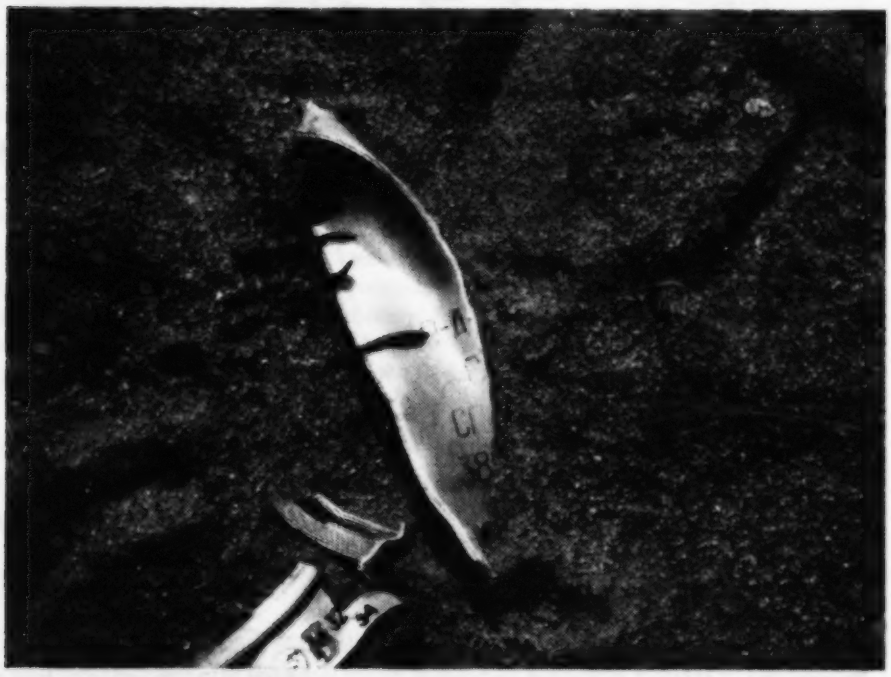
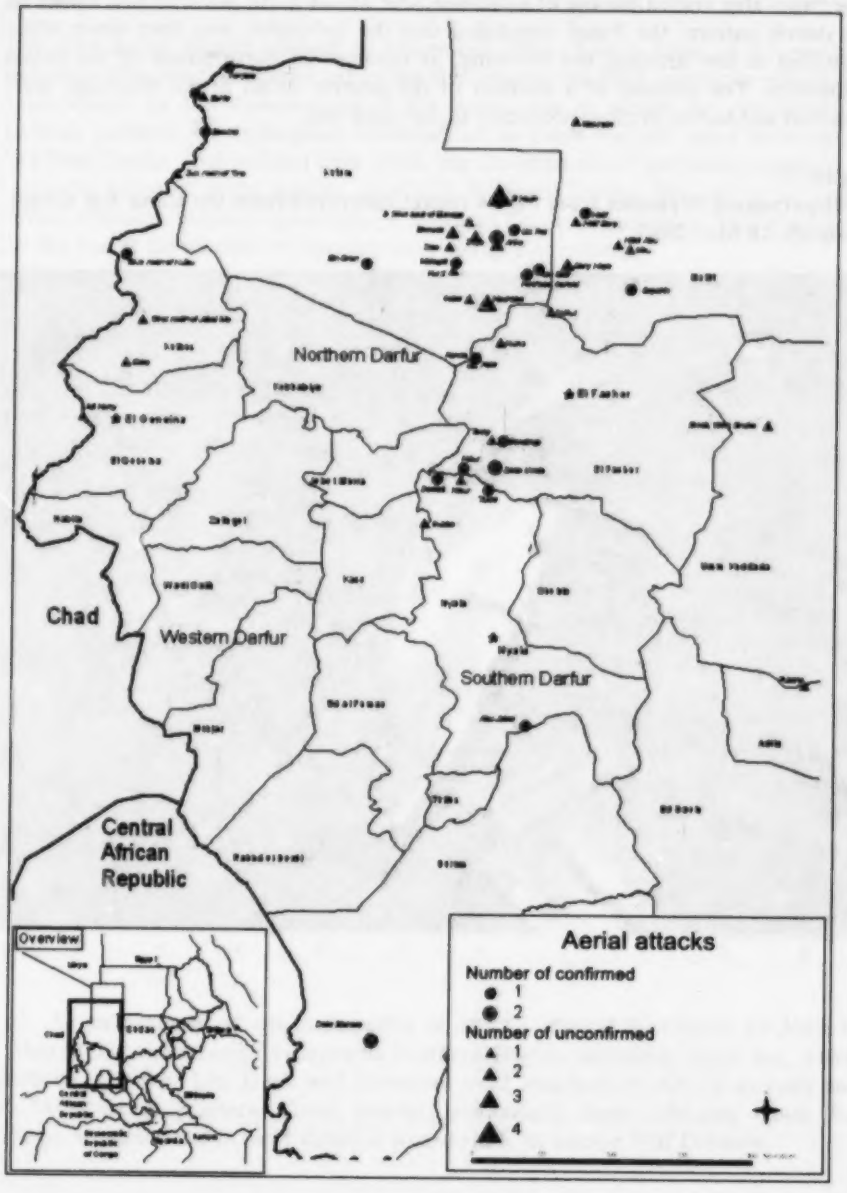


Figure 16
Reported (confirmed and unconfirmed) incidents of aerial attack in Darfur, September 2006 to July 2007



C. Observations and recommendations

Recommendation 20
Designation of individuals responsible for offensive military overflights

167. On 9 May 2007, SAF Western Region Commander Major General Mohamed al-Tahir al-Aharif stated, in response to a question from the Panel, that he had overall command responsibility for all SAF forces, including the air force, operating in the Darfur states.[15] In light of this, the Security Council should consider him for designation as being responsible for offensive military overflights in Darfur and as an individual responsible for acts that impede the peace process.

168. The Security Council should designate the Commander of the Sudanese air force, Lieutenant General Mohammed Abdel Qadir, as being subject to the measures in resolution 1591 (2005).

Recommendation 21
Prohibition on the sale of military fixed- and rotary-wing aircraft and associated spare parts to the Government of the Sudan

169. The Security Council should consider placing an embargo on the sale, supply and leasing of military fixed- and rotary-wing aircraft and associated spare parts for these aircraft to the Government of the Sudan.

170. Alternatively, the Security Council should consider placing an embargo on the sale or supply of fixed- and rotary-wing aircraft, and all associated spare parts and training, that the Panel has conclusively demonstrated have engaged in offensive military overflights in Darfur, including, for example, Mi-24 attack helicopters and AN-26 aircraft, to the Government of the Sudan.

VIII. Individuals who impede the peace process or who commit violations of international humanitarian and human rights law

A. Overview

171. This section presents the findings and recommendations of the Panel relating to individuals who (a) impede the peace process or constitute a threat to stability in Darfur or the region; or (b) commit violations of international humanitarian and human rights law, or other atrocities, in Darfur. Information on individuals in the former category is presented in the body of the text below, while information on individuals in the latter category is presented in the confidential annex to this report. The two previous sections of this report dealing with violations of the arms embargo and offensive military overflights also separately include information on individuals in the respective categories.

[15] Meeting with SAF Western Region Commander Major General Mohamed al-Tahir al-Aharif, El Fasher, 9 May 2007.

B. Individuals who impede the peace process or constitute a threat to stability

Updating criteria for acts that impede the peace process

172. The Panel has, since its establishment, employed a set of criteria for acts that constitute impediments to the peace process or threats to stability in an effort to guide its provision of information to the Security Council and Committee. The Panel has reviewed and updated the previous criteria (presented in S/2006/795) and the revised list of nine categories of acts is presented in annex II to this report.

Category I: violation of ceasefire agreements and ongoing hostilities

173. From September 2006 to August 2007 there have been consistent, wilful and systematic violations of the N'Djamena Ceasefire Agreement and the provisions of the Darfur Peace Agreement relating to ceasefire arrangements by parties to the respective agreements.[16] The Government of the Sudan has conducted aerial attacks (see sect. VII), as well as ground attacks, in some cases in conjunction with tribal militia groups. NRF has also engaged in hostile acts against AMIS and the Government of the Sudan. The various and shifting SLA factions, including the SLA/MM and the SLA/AW factions, have also engaged in ongoing hostilities. Notwithstanding their participation in the Darfur Peace Agreement, SLA/MM faction members in particular have engaged in hostile acts that in many cases have targeted civilians or have resulted in civilian casualties. During the first week of August 2007 there was intense fighting between non-State armed groups, including JEM, and the Government of the Sudan forces allegedly operating in conjunction with tribal militia groups in the area of Adila, Southern Darfur. The frequency of involvement of select parties to the conflict in armed engagements during the period October 2006 to June 2007 is presented in figure 17.

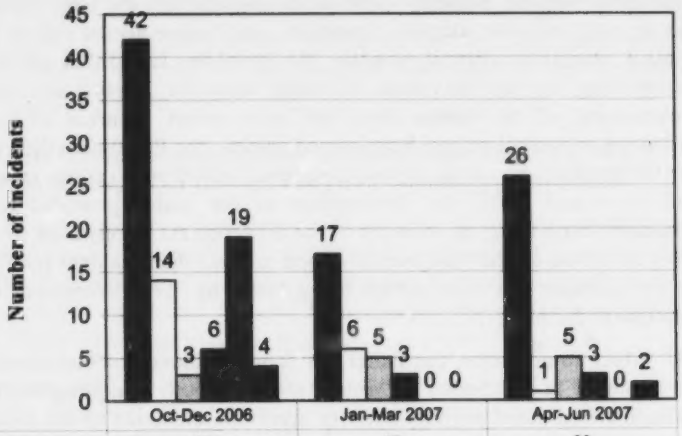
174. In addition to ongoing hostilities by the parties to the aforementioned Agreements, there has been an upsurge in the frequency and intensity of intertribal disputes and fighting, particularly in Southern Darfur, commencing in early 2006, but with dramatic escalation since December 2006. This fighting has included engagements between the Tarjum and Mahria (often referred to as the "Aballa" or "Northern Rizzegat") tribes in the Bulbul area of Southern Darfur and between the Habbaniya and Fallata tribes in the area of Buram, Southern Darfur.

175. These ongoing hostilities by parties to the conflict constitute a serious impediment to the peace process. The ceasefire monitoring mechanisms established under the N'Djamena Ceasefire Agreement and the Darfur Peace Agreement have, since the end of 2006, faced many challenges in their implementation. These challenges have included disputes concerning the participation of non-signatory factions in the meetings of the African Union Ceasefire Commission, the workings of the two "chambers" of the African Union Ceasefire Commission, and the payment of allowances to representatives from the SLA/MM faction participating in the African Union Ceasefire Commission. The Joint Commission established to consider violations of the ceasefire agreements has proven itself incapable of

[16] Chapter three of the Darfur Peace Agreement of 5 May 2006 details provisions relating to comprehensive ceasefire and final security arrangements; article 24 of the Darfur Peace Agreement prohibits certain activities by parties to the Agreement.

enforcing the provisions of the Agreements or holding to account those who continue to engage in hostilities.

Figure 17
Frequency of involvement of parties to the conflict in significant security incidents between October 2006 and June 2007 (in three-month blocks)



	Oct-Dec 2006	Jan-Mar 2007	Apr-Jun 2007
GOS	42	17	26
SLA (MM)	14	6	1
SLA (AW)	3	5	5
Other SLA factions	6	3	3
NRF	19	0	0
JEM	4	0	2

Category II: acts intended to obstruct or prevent United Nations and African Union peace initiatives in Darfur

176. Despite many approaches by the United Nations-African Union mediation team and international partners, the leader of the SLA/AW faction decided that he and commanders based in western Jebel Marra and associated with that faction would not participate in the Arusha meeting in August 2007 (see sect. II.C above) intended to achieve a common negotiation platform among parties who have not signed the Darfur Peace Agreement.

177. Members of the Panel met with Abdul Wahid in Paris in early June 2007. During the meeting Abdul Wahid communicated the following preconditions to entering into negotiations: full deployment of a hybrid United Nations-African Union peace operation in Darfur; return of internally displaced persons to their towns and villages of residence; and compensation for those affected by the conflict.

178. The non-participation of SLA/AW representatives or any other party that purports to represent the best interests of the people of Darfur in a genuine, inclusive and sustainable peace/mediation initiative constitutes a serious impediment to the peace process.

179. The United Nations-African Union mediation efforts have also been hampered by the actions of some opportunistic non-State armed group leaders and

commanders, who have deliberately frustrated efforts to reach pre-negotiation consensus among non-signatory factions.

Category III: failure of the Government of the Sudan to identify, neutralize and disarm armed militia groups

180. Since its establishment in 2005, the Panel of Experts has reported to the Committee and the Security Council its findings that the Government of the Sudan has abjectly failed to identify, neutralize and disarm armed militia groups under its control. During its current mandate, the Panel has found this still to be true. While recognizing the pervasiveness of small arms in Darfur and the fact that the Government of the Sudan does not have access to areas of Darfur under the influence or control of non-State armed groups, the Panel nonetheless concludes that the Government has done little to neutralize and disarm militia groups. Towards the end of August 2007, the Government of the Sudan provided the Panel with a document containing the remarks of the Government in response to comments of the African Union on the "Janjaweed/armed militias disarmament plan". These remarks do not indicate any firm action being taken by the Government of the Sudan to implement the plan.

181. More importantly, the Panel has found evidence of continued support by the Government of the Sudan for armed militia groups operating in Darfur, including through coordinated military activity involving elements of the armed forces of the Government of the Sudan, especially the Border Intelligence Guard, and armed groups associated with particular tribes.

182. The continued failure of the Government of the Sudan to actively identify, neutralize and disarm armed militia groups, and, furthermore, the support by the Government of the Sudan to some of these groups, has exacerbated intertribal conflicts. The Government of the Sudan has made no serious effort to disarm militia groups that have perpetrated attacks in Darfur, even when those attacks have resulted in significant civilian casualties (see the case study on Buram below).

Category IV: actions intended to exacerbate tensions between ethnic, tribal, political and other groups in Darfur

183. The presence and operations of non-State armed groups in certain areas that have traditionally been under the control of resident or nomadic tribes have in many cases resulted in an escalation of tribal disputes in the area. In some areas non-State armed groups have suppressed or circumvented the traditional tribal structures and customary procedures — for example, as SLA/MM has done in Gereida and elsewhere — and this in turn has disrupted the social and tribal fabric in the affected areas.

184. The Panel has gathered information on the arrival in Darfur of foreign nationals who are reportedly the family members of foreign combatants, some from Niger, who have come to Darfur.

Category V: provision of support to non-State armed groups and other parties that are engaging in ongoing hostilities

185. The Panel has gathered information on sources of support to non-State armed groups, including militia groups associated with particular tribes in Darfur. This

support has included the provision of weapons, financial support, logistical support, and safe haven to members of armed groups. The provision of weapons, and financial and logistical support are covered in sections IV and VI, respectively. The failure of the Government of the Sudan to identity and disarm some of the armed militia groups associated with particular tribes is discussed in the paragraphs above on category IV.

186. The Government of Chad has, during the current mandate of the Panel, provided safe haven to non-State armed groups in eastern Chad, including JEM. This was confirmed by the Panel through its open meetings with representatives of JEM in Abéché, Chad, in May 2007.

Category VI: acts that impede or frustrate African Union Mission in the Sudan/United Nations/African Union Ceasefire Commission operations

187. The Panel has gathered a significant body of information on acts that impede or frustrate the mission/operations of the United Nations, AMIS or the African Union Ceasefire Commission. Those acts include direct attacks on AMIS assets and personnel; obstruction of United Nations humanitarian operations; and the use of white aircraft by the Government of the Sudan.

188. From August 2006 to July 2007, there were 54 confirmed security incidents involving AMIS personnel. The two case studies presented relate attacks against AMIS personnel in August 2006 and in March 2007.

Case study
Attack on AMIS protection force escorting jet fuel tankers, August 2006

Description of events

189. On 19 August 2006, an AMIS protection force escorting a convoy of 27 fuel tankers containing jet aviation fuel, belonging to Matthews Petroleum Company, was ambushed at Lwabit, 60 km from El Fasher. The ambush resulted in two Rwandan AMIS soldiers being killed, three other AMIS soldiers critically injured, one AMIS armoured personnel carrier destroyed (see fig. 18), two AMIS vehicles damaged, seven weapons and some communication equipments stolen, and 18 fuel tankers of the Matthews Petroleum Company stolen by the assailants. The attackers used approximately 46 pickup trucks, mounted with various calibre machine guns. The Panel met officials of the African Union Ceasefire Commission, the Matthews Petroleum Company (at El Fasher and Khartoum), and the Government of the Sudan, and interviewed the driver of the Matthews Petroleum Company fuel tankers and his assistant, both of whom had escaped from captivity.

190. The assailants appeared to be well-equipped and well-trained. They reportedly spoke in French and Arabic, with Chadian accents, and their vehicles carried the names of NRF and JEM. The assailants escaped with 18 fuel tankers and eventually crossed the border into Chad. According to witnesses, the assailants identified themselves as members of NRF.

191. When the convoy of hijacked vehicles passed through Kiriari (the water tank of Kiriari demarcates the border between the Sudan and Chad), a Chadian army colonel, travelling in his Chadian army vehicle, assumed command of the convoy. On 10 September 2006, the drivers and their 18 assistants were driven to a mountainous area of Bahai, inside Chadian territory. After four days, the group was

taken to the mountains of Omm Jaras, where the drivers and assistants joined 214 Sudanese army prisoners of war.

192. The Panel met with the Chairman and other officials of the Matthews Petroleum Company, who estimated their financial loss at $7 million. On 24 August 2006, the Matthews Petroleum Company lodged an official complaint with the prosecutor in El Fasher. The incident is reportedly being investigated by the Sudanese police. Documents received by the Panel may link the incident with NRF.

193. The Panel also received information that the carjackers, claiming to be members of NRF, made frequent telephone calls to Matthews Petroleum Company officials, demanding ransom for the release of the tankers and kidnapped personnel. In the absence of payment, the carjackers have allegedly started seeking opportunities to sell the tankers in Chad. During the Panel's visit to Chad, enquiries with the authorities yielded no concrete information about these vehicles.

Figure 18
Destroyed AMIS armoured personnel carrier following attack on AMIS escort, 19 August 2006

Discussion and findings

194. The findings of the Panel can be summarized as follows: on the basis of available evidence, the Panel believes that the non-State armed group that attacked the fuel convoy and killed AMIS personnel consisted of elements from NRF and JEM, supported by armed men from Chad.

Case study
Attack on AMIS protection force, Gereida

Description of the event

195. On 5 March 2007, four protection force soldiers of AMIS, posted at the military observer group site in Gereida, Southern Darfur, were attacked by unknown armed groups, leading to the death of two AMIS soldiers from Nigeria.

196. The Panel visited Gereida on 7 March 2007, two days following the attack, and during that mission visited the site of the ambush. The Panel held discussions with the AMIS officials in Gereida, and the Commander and forces of the SLA/MM faction. The Panel also held discussions with the AMIS Sector II Commander in Nyala.

Figure 19
Gereida, Southern Darfur: site of attack/ambush against AMIS personnel

197. From the discussions, it emerged that AMIS personnel posted at the military observer group site in Gereida were under constant threat for a period of over 10 months over the death of a boy from the area. SLA/MM representatives reportedly accused AMIS soldiers of killing the boy by running him over with their armoured personnel carrier, and demanded compensation. The AMIS officials strongly denied this and maintained that the boy had died in a stampede outside the camp.

198. The site of the incident, as viewed by the Panel during its visit on 7 March, is an open area on the road dividing the internally displaced person camps close to the AMIS camp. The incident took place on 5 March at around 1700 hours, when four members of the unarmed AMIS patrol party were returning in their vehicle. The Panel was informed that a group of SLA/MM soldiers blocked the road and ordered the AMIS vehicle to stop. When the AMIS soldiers did not stop, two SLA/MM soldiers opened fire at the AMIS soldiers. One AMIS soldier, who sustained injuries, managed to escape and relayed a message to the military observer group site. The attackers allegedly kidnapped other soldiers along with the AMIS vehicle. Later, the AMIS force came to the area and recovered the dead body of one of their soldiers from a location about 5 km from the military observer group site, and the dead body of the second soldier was recovered the next day about 500 m from the scene. While maintaining that the Gereida area fell under the control of SLA/MM, the Commander strongly denied the allegations that members of SLA/MM were involved in the incident.

Discussion and findings

199. The findings of the Panel can be summarized as follows:

(a) AMIS military observer group site personnel were threatened with violent retaliation in the months following the incident on 7 March 2007, and some of those threats were delivered by members of the SLA/MM faction in the presence of the SLA/MM representative based at the AMIS military observer group site;

(b) On the basis of its investigations and interviews, the Panel believes that the AMIS protection force members were killed in retaliation for the death of a boy outside the AMIS military observer group site camp some time previously;

(c) The Panel believes that members of the SLA/MM faction or individuals affiliated with the faction were responsible for the attack;

(d) Local SLA/MM commanders and the senior leadership of SLA/MM have not taken steps to hold to account those who may have been responsible for the attack.

Use of white aircraft by the Government of the Sudan

200. The Panel has observed and recorded in Darfur the use of white aircraft (fixed- and rotary-wing) by the Government of the Sudan. The Panel has attempted to track two white Antonov aircraft being used for military purposes by the Government of the Sudan in Darfur, as well as white helicopters. The first of these aircraft is identified as an SAF aircraft bearing the registration number 7705. A second white Antonov aircraft, operated by SAF in Darfur, bears the registration number ST-ZZZ.

SAF aircraft registration 7705 and use of white aircraft with "UN" markings by the Government of the Sudan

201. The Panel observed a white AN-26 aircraft parked on the military apron at El Fasher Airport on 7 March 2007, next to what is believed, on the basis of photographic and expert analysis and comparison to field evidence from earlier bombings, to be rows of bombs guarded by SAF soldiers (see fig. 20). This aircraft had "UN" markings on the upper aspect of its port (left) wing. The use of white aircraft bearing "UN" markings in Darfur by the Government of the Sudan was reported to the Committee in a dedicated case report on 10 March 2007 (reference: 1591P/M4-3/0307). The aircraft also had the numbers 26563 on its fuselage. The number 26563, with the country prefix deleted, is confirmed through correspondence as having originated in the Russian Federation. The number 7705 on the forward fuselage and tail is the Government of the Sudan registration number. The Panel confirmed with the Government of Kazakhstan (whose civil aviation aircraft use the prefix "UN") that there has never been an aircraft registered UN-26563 in Kazakhstan. The Panel obtained documentation from the Russian Federation (whose civil aviation aircraft use the prefix "RA") that an AN-26 aircraft registered RA-26563, with the serial number 3506, was sold to AZZA Transport in the Sudan in March 2004.

202. The Government of the Republic of the Sudan submitted a letter to the Security Council Committee dated 12 April 2007 in response to two previous letters from the Committee regarding violations of Security Council resolution 1591 (2005). That letter acknowledged that the white aircraft bearing registration number

7705 is indeed an aircraft of the Government of the Sudan. This was confirmed in meetings that the Panel held with representatives of SAF in El Fasher and Khartoum. The Government of the Sudan stated in its letter that it "has never been the case [that the aircraft was for use in military activity in Darfur] ... and ... that it is an ordinary transport aircraft ...".

203. Through its field investigations, interviews and recording of eyewitness accounts the Panel has established that the Government of the Republic of the Sudan has used white Antonov aircraft — most likely originally intended as commercial/civilian-use aircraft — in military operations since March 2005. For example, in a meeting with the Western Military Area Commander, Mohamed al-Tahir al-Aharif, in El Fasher in early May 2007, the Western Military Area Commander stated that white Antonov aircraft had been used to drop bombs on one occasion: on 7 October 2006. When the Panel requested clarification of this admission from SAF Central Command in Khartoum (on 20 May 2007), the Western Military Area Commander said that he originally meant that the Antonov aircraft were used for military reconnaissance, not aerial bombardments. In either case, these statements contradict the assertions of the Government of the Sudan in its letter to the Committee.

204. Eyewitness statements gathered by the Panel of Experts confirm the use of white Antonov aircraft in conducting aerial bombardments. For example, between 19 and 30 April 2007, white Antonov aircraft were used to conduct aerial bombardments in locations in Northern Darfur (including Umm Rai). During this period, Mi-24 military attack helicopters were also employed in conducting air-to-ground strikes. The Panel visited the area of Umm Rai on 10 May 2007 and conducted its own primary investigations into the attacks.

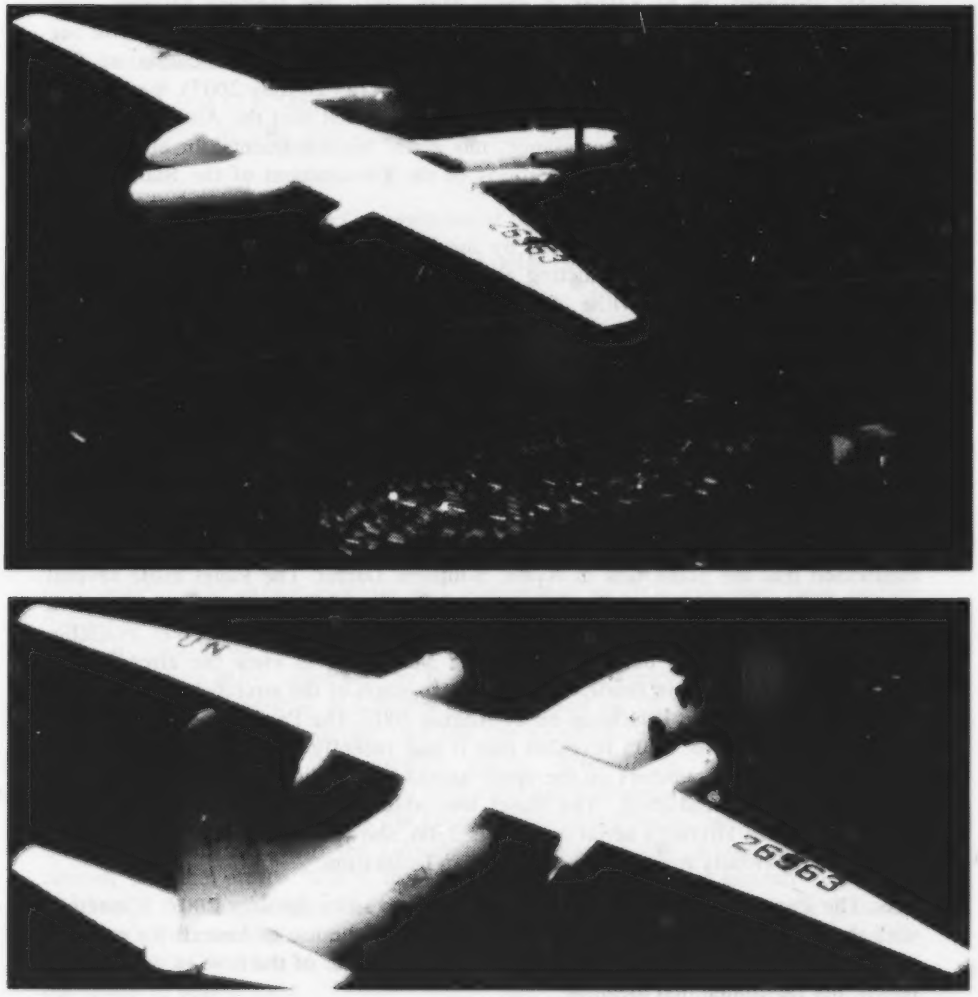
205. During a meeting with representatives from SAF Central Command in Khartoum on 20 May, the Panel expressed its strong interest in viewing the Government of the Sudan white Antonov aircraft registration number 7705 to confirm the "UN" markings on the upper-port wing. The representatives from SAF mentioned that the plane was in Nyala, Southern Darfur. The Panel made several attempts, through SAF and the Ministry of Foreign Affairs, to organize such a viewing in a convenient location, and Panel members made themselves available during a visit to Nyala between 24 and 28 May 2007 to view the aircraft. The Government of the Sudan finally facilitated inspection of the aircraft by members of the Panel of Experts in Khartoum on 27 August 2007. The Panel's inspection of the aircraft registered No. 7705 revealed that it had recently been repainted, and any trace of registration numbers on the upper aspect of the wings had been thoroughly removed prior to repainting. The Panel was able to confirm from the aircraft's logbook that this aircraft's serial number is 3506, showing it to be the same aircraft as the one previously registered in the Russian Federation.

206. The Panel requested, on numerous occasions since January 2007, a meeting with the director of SAF to discuss issues related to the use of aircraft for military purposes in Darfur. The Government of the Sudan has, as of the time of writing this report, not facilitated that meeting.

207. The use of Antonov aircraft in aerial bombardments has been acknowledged by representatives of the Government of the Republic of the Sudan themselves. The following example is a case in point. An African Union Ceasefire Commission ceasefire violation report found that ground attacks in Deim Bishara in December

2006 were followed by aerial bombardment by a Government of the Sudan aircraft. In his comments on the original investigation report of the (then) alleged ceasefire violation — i.e. the ground and air attacks on Deim Bishara — the Government of the Sudan representatives to the African Union Ceasefire Commission in Nyala (African Union Sector 2) provided the following clarification on the aircraft used in the bombing, "The aircraft used was Antonov, not helicopter gunship."[17]

Figure 20
Top: AN-26 (No. 7705/26563) with UN marking (port wing) at El Fasher Airport, 7 March 2007; bottom: same aircraft at El Fasher Airport on 27 March 2007



[17] African Union Ceasefire Commission, *CFC Ceasefire Violation Report No. 019/07: Government of the Sudan Attack on Deim Bishara on 8 December 2006* (El Fasher: African Union Ceasefire Commission, 24 January 2007).

208. The SAF aircraft bearing registration No. 7705 was observed on the military apron at the Khartoum International Airport on 21 June 2007 with the 26563 registration number and "UN" marking removed (see fig. 21).

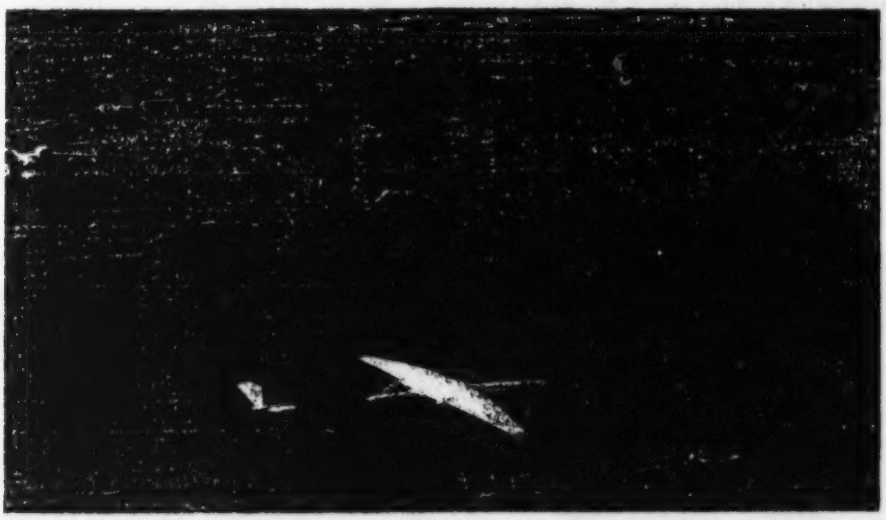
Figure 21
AN-26 (SAF registration No. 7705) at Khartoum International Airport, 21 June 2007

Aircraft(s) bearing registration number ST-ZZZ

209. The Panel reported in March 2007 the existence of three AN-26 aircraft with the same registration number, ST-ZZZ. The first aircraft had "SAF" and a small Sudanese flag painted below the cockpit and was seen on the military apron at El Fasher Airport. The second aircraft was at El Fasher Airport, having crashed there, and the third, without a SAF marking, was observed by the Panel at the Khartoum International Airport. The Sudanese Civil Aviation Authority informed the Panel on 24 January 2007 that no more than one aircraft could have the same registration number and that registration numbers are not reassigned if the aircraft becomes unserviceable or is decommissioned. Subsequent to that meeting, the registration number of the crashed AN-26 was removed. At a meeting with the Director General of the Civil Aviation Authority on 17 July 2007, he stated that there was no AN-26 in the inventory of Sudanese registered aircraft with the registration number ST-ZZZ.

210. The Panel believes that the white SAF AN-26 registered ST-ZZZ currently operating in Darfur has been fraudulently marked with a civil aviation registration number apparently without the authorization of the Sudanese Civil Aviation Authority.

Figure 22
AN-26 (ST- ZZZ) at El Fasher Airport, 24 June 2007



Use of white military helicopters by the Government of the Sudan

211. The Panel observed two white Mi-171 helicopters stationed in Darfur in January, February and March 2007. The helicopters, numbered 528 and 533, had military registrations on the tail and SAF painted below the cockpit. Neither aircraft displayed a Sudanese flag painted on the aircraft. The Panel believes this is a method to further conceal their identity so that from a moderate distance they resemble United Nations or AMIS Mi-8 helicopters used in Darfur.

Category VII: failure of parties to the conflict in Darfur to enforce accountability among combatants

212. The Panel has gathered information and investigated particular case studies pointing to the failure of parties to the conflict to enforce accountability for actions of combatants under their control. The Government of the Sudan has failed to hold to account those who have perpetrated attacks that may constitute violations of international humanitarian law. In some of the case studies of acts that may constitute violations of international humanitarian law investigated by the Panel — for example, in Bulbul, Southern Darfur — the Government of the Sudan has acknowledged the role of members of the various elements within the armed forces of the Government of the Sudan, but has failed to take action to hold those individuals to account.[18]

213. The SLA/MM faction under the control of Minni Minawi has abjectly failed to properly investigate and hold to account members of that group who are suspected

[18] In a report on the attacks in the Bulbul area of Southern Darfur between January and March 2007, the Office of the Wali acknowledged the involvement of Border Intelligence Guards in the fighting between the Tarjum and Aballa tribes, but noted that this was not "official institutions' policy". See Office of the Wali, Southern Darfur, *The attack in Bulbul area between January and March 2007* (Nyala, Southern Darfur: Office of the Wali, 17 May 2007).

to have committed violations of international humanitarian and human rights law in Darfur, including the alleged execution of detainees and attacks directed against humanitarian workers in Darfur.

214. In the case of many of the armed engagements involving members of tribal militias, the perpetrators are often known, and there have been insufficient or no efforts, by the Government of the Sudan or the tribal leadership, to enforce accountability for the acts of combatants who may have committed violations of international humanitarian or human rights law.

Category VIII: failure by the Government of the Sudan and other States to fully implement resolutions of the Security Council concerning the situation in Darfur

215. The Governments of Chad and the Sudan have failed to fully implement the provisions of Security Council resolution 1672 (2006) (see section VI) and have violated the provisions of Security Council resolutions 1556 (2004) and 1591 (2005) (see section IV).

216. Any obstruction of implementation of Security Council resolution 1769 (2007), and in deployment the UNAMID mission authorized under that resolution in particular, would constitute a serious impediment to peace in Darfur.

Category IX: cross-border incursions

217. During the period covered by the present report, the Panel has gathered information on cross-border incursions by: (a) armed forces of Chad into the Sudan; (b) Chadian armed opposition groups gathering or based in Darfur and in eastern Chad (Adré); and (c) NRF and JEM, from Darfur to eastern Chad and vice versa.

218. The armed incursion by the armed forces of the Government of Chad appears to have been an isolated incident. However, the incident resulted in a clash between the armed forces of Chad and the Sudan, with the death of 17 SAF members.

C. Violations of international humanitarian and human rights law

Overall approach

219. The Panel of Experts employed a technical, fact-finding approach to provide information on acts that may constitute violations of international humanitarian and human rights law. This approach extended to the provision of information on individuals who could reasonably be considered — on the basis of facts established by the Panel, a substantial body of information and evidence, and in consideration of the facts "on the balance of probabilities" — to have committed those acts.

220. The Panel does not attempt to determine criminal intent in the actions of individuals. Therefore the findings of the Panel cannot be considered as the sole basis for determining whether the individuals identified bear criminal responsibility for violations of international humanitarian and human rights law. The findings of the Panel could, however, be used by a competent court or investigative body to further its own investigations of violations of international humanitarian and human rights law in Darfur.

221. In this context, the Panel pursued its investigations with the goal of establishing first and foremost whether a particular attack or incident may constitute

a violation of the applicable rules and norms of international humanitarian and human rights law, and, if so, who was responsible — by act of commission or omission — for such acts. The Panel is providing information on these individuals in a confidential annex to the present report.

International humanitarian and human rights law and the situation in Darfur

222. The conflict occurring in Darfur since 2003 can be characterized by: (a) hostilities between organized, non-State armed groups (e.g. SLA factions and JEM) and the Government of the Sudan; (b) occasional and limited direct engagements between the armed forces of the Governments of the Sudan and Chad; (c) intertribal conflict; (d) support for proxy forces by the Governments of the Sudan and Chad to non-State armed groups operating in the territory of the other State; and (e) demonstrated operational coordination and support between SAF and allied militia groups.

223. Information gathered by the Panel points to influence by the Governments of the Sudan and Chad over Chadian armed opposition groups and JEM/other forces, respectively, operating from their respective territories into the territory of the other State, but not to overall and effective control of those groups by each of the Governments.

224. In the light of these characteristics, and for the purposes of identifying the applicable regimes of treaty-based and customary international humanitarian law for particular attacks, the situation in Darfur can be considered a "mixed" conflict, involving elements of non-international and international armed conflict.

225. The Republic of the Sudan has acceded to or the Government of the Sudan has ratified, among others, the following international humanitarian law treaties: the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 (on 13 October 2003); the four Geneva Conventions of 1949 (on 23 September 1957); the Biological Weapons Convention of 1972 (on 17 October 2003); Protocols I and II Additional to the four Geneva Conventions, 1977 (on 7 March and 13 July 2006, respectively); and the Chemical Weapons Convention of 1993 (on 24 May 1999). The two Protocols Additional to the Geneva Conventions of 1949 entered into force in September 2006 (Protocol I) and January 2007 (Protocol II).

226. All parties to the conflict in Darfur are bound by the provisions of the Geneva Conventions that regulate the means and methods of warfare in situations of non-international armed conflict, specifically article 3 common to the four Geneva Conventions of 1949. Furthermore, for incidents that bring an international dimension to the conflict, the Government of the Sudan is bound by the provisions of Additional Protocol I of 1977 to the four Geneva Conventions. For Additional Protocol II to the four Geneva Conventions to apply to the non-international armed conflict, the hostilities must involve the Government of the Sudan and one or more non-State armed group(s). In addition to the provisions of treaty-based international humanitarian law, all parties to the conflict in Darfur are bound by the norms of

customary international humanitarian law.[19] Under treaty-based and customary international humanitarian law, acts that are prohibited in situations of non-international armed conflict include, but are not limited to:

(a) Violence to life and persons, in particular murder of all kinds, mutilation, cruel treatment and torture of persons who are not, or are no longer, taking part in the hostilities;

(b) The taking of hostages;

(c) Outrages upon personal dignity, in particular humiliating and degrading treatment of persons who are not, or are no longer, taking part in the hostilities;

(d) The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court;

(e) Attacks directed against civilians or civilian objects;

(f) Indiscriminate attacks;

(g) Attacks expected to cause incidental loss of civilian life, injury to civilians, and/or damage to civilian objects that would be excessive in relation to the concrete and direct anticipated military advantage;

(h) Rape and other forms of sexual violence;

(i) Acts of pillage.

227. Moreover, under the two Additional Protocols (1977) to the Geneva Conventions, it is prohibited to "attack, destroy, remove, or render useless objects indispensable to the survival of the civilian population" (article 54.2 of Protocol I and article 14 of Protocol II).

228. The targeting of humanitarian workers is explicitly prohibited under treaty-based and international humanitarian law. Additional Protocol II (1977) to the four Geneva Conventions of 1949, states that "relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken" (article 18.2) on the condition of approval of the State party in which the conflict is occurring. In cases where this relief is provided by humanitarian organizations, such relief must be facilitated. Moreover, customary international humanitarian law stipulates that humanitarian relief personnel must be respected and protected. In addition to these provisions of international humanitarian law, humanitarian practitioners are also protected under international criminal law, including the Rome Statute of the International Criminal Court (1998).

229. The Government of the Sudan has entered into several international human rights treaties that collectively frame the duties and obligations of the Government vis-à-vis the human rights of individuals in the Sudan. Those international treaties

[19] In March 2005, the International Committee of the Red Cross published a study of customary international humanitarian law that aims to overcome some of the challenges associated with the application of treaty-based international humanitarian law. The study identifies 161 rules of customary international humanitarian law clustered in six subject areas. The rules identified in the study are listed as an annex in Jean-Marie Henckaerts' article entitled "Study on customary international humanitarian law: a contribution to the understanding and respect for the rule of law in armed conflict", *International Review of the Red Cross*, No. 857 (March 2005).

include the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child, as well as the Optional Protocols thereto on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography.

230. States parties to those treaties are obligated to safeguard and fulfil, to the fullest extent in view of available resources, the rights specified in the various treaties. In certain limited, exceptional circumstances, for example, in a state of public emergency, States parties to some of the human rights treaties may derogate from certain civil and political rights. However, there are certain rights that are non-derogable; that is, that can never be suspended. The International Covenant on Civil and Political Rights provides that the following rights may never be derogated from:

(a) Right to life (article 6);

(b) Prohibition of torture and cruel, inhuman or degrading treatment or punishment (article 7);

(c) Prohibition of slavery (article 8, paragraphs 1 and 2);

(d) Prohibition of imprisonment because of inability to fulfil a contractual obligation (article 11);

(e) Prohibition of retroactive application of criminal law (article 15);

(f) Right to recognition as a person before the law (article 16);

(g) Freedom of thought, conscience and religion (article 18).

D. Findings: violations of international humanitarian law

Nature and patterns of violations of international humanitarian law

231. The Panel has established that widespread violations of international humanitarian law continue to occur with impunity in Darfur. The nature of the violations confirmed by the Panel include the intentional targeting of civilians and civilian property; indiscriminate attacks and failure to take adequate precaution to protect civilians and civilian property; the use of rape in certain cases as an instrument of warfare; the killing of civilians and those no longer taking part in the conflict; and the looting of civilian property.

232. The Government of the Sudan has engaged in air and ground attacks, sometimes in conjunction with armed militia groups, during which civilians have been directly targeted (see the case study on Umm Rai below) and civilian property looted or destroyed (see the case study on Hilif below). The acts of aerial bombardment by the Government of the Sudan Antonov aircraft using unguided munitions from medium altitude in areas in which there is a considerable, known civilian presence is inherently indiscriminate because of the inability to precisely target the weapons.

233. Rape has been used as an instrument of warfare in the attacks conducted by Government of the Sudanese Popular Defence Force (PDF) personnel and

combatants associated with the SLA faction of Abu Gasim in eastern Jebel Marra in December 2006. The SLA/MM faction has harassed civilians in areas under its control, intentionally targeted humanitarian practitioners, and executed detainees. Organized militia groups associated with various tribes in Southern Darfur have intentionally targeted civilians and looted civilian property during attacks.

234. The Panel has gathered information on the denial of access by civilians to water in a small number of conflict-affected areas throughout Darfur, including in the Dobo area of eastern Jebel Marra. Moreover, the Panel has observed first-hand the presence of children among the forces of non-State armed groups operating in Darfur, although in many cases the precise age of these children could not be verified.

Case studies

235. The Panel performed case study analyses of 10 cases spanning the period August 2006 to August 2007. These case studies were chosen as a representative sample of the broader population of attacks and security incidents that took place in Darfur during that period (see annex III). Each of the case studies relates to an attack or incident that may constitute a violation of customary or treaty-based international humanitarian and/or human rights law. In addition to ensuring a representative sample, case selection was undertaken to reflect a variety of geographical locations and parties to the conflict. The location and dates of the incidents or attacks investigated are shown in the following table. For all case studies, the Panel drew on existing incident reports (African Union and others), primary interviews and its own field investigations. The case study findings are presented here without prejudice to findings or results of investigations by other competent bodies.

Table 1
List of case studies investigated by the Panel pertaining to acts that may constitute violations of international humanitarian or human rights law

Case	*Location*	*Date*
1	Buram [villages in Buram area], Southern Darfur	August-September 2006
2	Gereida, Southern Darfur	September 2006-March 2007
3	Abu Sikin, Northern Darfur	October-December 2006
4	Jebel Moon, Western Darfur	October 2006
5	Sirba, Western Darfur	November 2006
6	Hilif, Northern Darfur	November 2006
7	Deim Bishara, Southern Darfur	December 2006

Case	*Location*	*Date*
8	Eastern Jebel Marra, Northern/Southern Darfur border	December 2006 to May 2007
9	Bulbul, Southern Darfur	January-March 2007
10	Umm Rai, Northern Darfur	April-May 2007

Case study 1
Buram area, Southern Darfur, August 2006 to September 2006

236. This case study presents the findings of the Panel relating to a number of attacks in Buram locality between August 2006 and September 2006. The case study attempts to capture facets of the complex dynamics underpinning the conflict in Southern Darfur, including inter-tribal conflict, the impact of breakaway non-State armed group factions in exacerbating the security situation, and the legacy of previous support by the Government of the Sudan to certain tribal groups.

237. The case study analysis that follows is based on primary interviews with former residents of the villages that were attacked and secondary interviews and reports.

Summary description of events

238. In April 2006 a breakaway faction of SLA/MM entered into the town of Geweghina and in the following months reportedly committed abuses against the civilian population in the area. At that time the breakaway faction was under the control of Siddiq Abdul Karim Nassir, who later referred to a non-State armed group under his control as JEM-Peace Wing.[20]

239. From 28 August to 4 September 2006, Arab militia groups from the Habbaniya tribe embarked on a large-scale attack in the Buram locality of Southern Darfur. In total 47 villages in the Buram locality were attacked. These villages were inhabited by tribal people of African origin.

240. The attacks began on 28 August 2006 with the villages of Tabaldiyah, Ligedeiba, Geweghina, Tirtish, Kuria, Bagaga, Um-Dremeh and Hillat Tama being attacked and destroyed. On 29 August, two more villages — Arada and Bir Sigir — were attacked and destroyed. On 30 August, the village of Amoodh al-Akhdar was attacked and destroyed. Over the first three days of September 2006 the villages of Geweghina, Amoodh al-Akhdar, Tabaldiyah, Ligedeiba and Tirtish were also attacked and destroyed. It is estimated that 500 civilians were killed in the attacks.

241. Witnesses say that hundreds of armed Habbaniya militia from Shorab and Wad Hijjam wearing khaki military uniforms and mounted on camel and horses supported and accompanied by several Landcruiser military vehicles with machine guns mounted on them were responsible for the attacks. The attackers possessed heavy weaponry, and swept through the area attacking the villages systematically and forcing the inhabitants to flee.

[20] See reference to this individual also in the case study on Deim Bishara.

242. As the attackers approached houses, they fired indiscriminately, with sustained bursts of machine gunfire. Civilians attempting to flee the village were fired upon and in some cases captured and killed. Some villages were attacked in a two-pronged movement so that fleeing villagers ran into the second prong of the attack. Witnesses have reported that many women and children were killed in this manner.

243. Livestock and other possessions of the population were extensively looted and thereafter the villages were set alight. Groups of civilians that were making their way to internally displaced persons camps were also targeted by the Habbaniya militia. Such groups were fired upon, forcing the displaced persons to scatter. This separated family groups, and the whereabouts of many people have still not been determined. These attacks severely hampered efforts to deliver humanitarian assistance.

Discussion and findings

244. The findings of the Panel can be summarized as follows:

(a) Evidence gathered by the Panel points to the involvement of Siddiq Abdul Karim Nassir and armed elements under his control in acts that constitute violations of human rights and international humanitarian law in Geweghina and other locations in the Buram locality during April 2006. The extent of these abuses cannot be precisely determined;

(b) It has been established that an armed militia group drawn from or associated with the Habbaniya tribe engaged in the attacks against certain villages in the Buram locality from 28 August to 4 September 2006. During those attacks acts were perpetrated that constituted violations of international humanitarian and human rights law, including the targeting and killing of civilians and the destruction and looting of civilian property;

(c) The Panel has identified individuals believed to be responsible for these attacks;

(d) The Office of the Prosecutor in Nyala, Southern Darfur, told the Panel that the attacks related to a tribal dispute, and that an investigator had been dispatched to Buram. As of August 2006, according to the Office of the Prosecutor, investigations were ongoing and as yet no criminal prosecutions have occurred.

Case study 2
Gereida, Southern Darfur, September 2006-March 2007

245. The Panel has during its previous mandates investigated and presented case study analyses on Gereida in Southern Darfur, spanning back to 2005. The situation in Gereida continues to be of interest to the Panel for a number of reasons:

(a) A number of individuals were rounded up by members of an SLA/MM armed group and reportedly killed in September 2006;

(b) In December 2006 there was a brutal and targeted attack against humanitarian workers in Gereida;

(c) It was the site of a fatal attack against AMIS protection force personnel in March 2007 (described in a case study under "category VI" of acts that impede the peace process above).

246. In August 2006, following the signing of the Darfur Peace Agreement, Minni Minawi was appointed as the Senior Assistant to the President of the Sudan and also as the Chairman of the newly created Transitional Darfur Regional Authority. SLA/MM currently has de facto military, political and administrative control of Gereida.

Summary description of events

247. On 29 September 2006, the military base of SLA/MM in Gereida was attacked. After the attack a group of soldiers belonging to SLA/MM conducted raids in Gereida on homes and businesses and at the market, arresting men who were believed to be SLA/MM dissidents and who were possibly involved in the attack earlier that day. It is not known precisely how many men were arrested in this manner, but at least 19 such arrests were made.

248. A group of senior tribal men who live in Gereida and who witnessed the arrests went to the SLA/MM military base where the arrested men were being held. They saw the men at the base and verified that they had been arrested. They were concerned about their fate and formed a Committee among themselves to deal with this matter.

249. The Committee met with a delegation of SLA/MM in Gereida the following day to discuss the arrests. SLA/MM was represented by, inter alia, the Deputy Head of SLA/MM, Dr. Al Rayah, and SLA commanders Juma Haggar, Adam Ismail al-Noor, Mohammed Shorba and Bakheet Kareema. The Committee was informed that the men had been detained pending an investigation into the attack on the SLA/MM base the previous day. They were assured that once the investigation was completed, the men would be released.

250. It was later reported to the families of the arrested men that the arrested men had been moved from Gereida to Sunut and later to Muhajiria.

251. On 16 October 2006, the Deputy President of SLA/MM issued an order for the release of the perpetrators of the Gereida incidents who had been arrested. The order also specifically included Umda Yagoub Abdullah al-Tigani. On 31 October 2006, the General Secretary of SLA/MM, Mustafa Mohamed Ahmed Tyrab, issued an order to the General Military headquarters, to implement the release of the men who had been arrested. Despite that, the arrested men did not return home, nor did they contact their families.

252. On 22 January 2007, a grave was discovered in Rahad al-Udam, Southern Darfur. An exhumation of the grave was conducted by representatives of the Government of the Sudan. It was found to contain eight bodies, one of which was positively identified as Umda Yagoub Abdullah al-Tigani, the person who was specifically mentioned in the release order dated 16 October 2006. He had been arrested together with at least 18 others in Gereida on 29 September 2006. The other seven bodies were also identified by relatives as men who had been arrested on 29 September 2006.

253. None of the men who were arrested on 29 September 2006 have been seen since their arrest and removal from Gereida by SLA/MM.

Discussion and findings

254. On 6 April 2007, in Geneva, the Office of the High Commissioner of Human Rights issued a press release calling on Special Presidential Assistant Minni Arkoy Minawi (the head of SLA/MM) to immediately disclose the fate and whereabouts of the arrested men. The High Commissioner called for the men "if alive" to be brought before a judicial authority. The High Commissioner also said that if the men were dead, there had to be an independent, transparent and timely inquiry to identify those responsible and hold them accountable for crimes that may have been committed.

255. In a letter to the United Nations in the Sudan, Mr. Minawi admitted the arrests of the men, but said that all the men were subsequently released following the SLA/MM order for their release at the end of October 2006. He also said that he could not confirm if the 19 persons mentioned were alive or had been killed during the attack on the SLA/MM base in Gereida by Massalit dissidents. In June 2007 the legal adviser to the Transitional Darfur Regional Authority, which is headed by Mr. Minnawi, announced the establishment of a commission of inquiry to probe the incident.

256. A group of Gereida residents, including the relatives of the missing men, rejected the commission of inquiry on the basis that it was unlikely to be independent and transparent. It is reported that Mr. Minnawi is now seeking reconciliation with the family members of the arrested men and is negotiating a payment of compensation to the families.

257. The findings of the Panel are:

(a) Members of the SLA/MM armed group operating in Gereida, Southern Darfur, killed at least eight detainees who had been abducted by SLA/MM in September 2006;

(b) The abductees were no longer participating in the conflict; therefore their killing constituted a violation of international humanitarian law;

(c) SLA/MM has failed to institute a timely inquiry to identify those responsible and hold them accountable for the killing of the detainees.

Case study 3
Abu Sikin, Northern Darfur, October-December 2006

258. This case study focuses on attacks against the village of Abu Sikin in Northern Darfur and the surrounding area during the period October-December 2006. The Panel's investigations of the alleged attacks involved primary investigations, including a mission to Abu Sikin village and interviews in the area, as well as analysis of secondary reports and interviews.

Summary description of events

259. The area of Abu Sikin, comprising more than 24 villages and located at a distance of about 50 km from El Fasher in Northern Darfur, bore the brunt of a series of attacks by armed militias, allegedly supported by SAF, between October and December 2006. On 6 March 2007, the Panel visited Abu Sikin village and observed that a large number of houses were completely burned and the villagers

had deserted the village; some had gone to the internally displaced persons camp and some were hiding in the nearby mountains.

260. The Panel held discussions with some of the villagers and the local Commander of SLA-Free Will, who narrated the events of the past months. According to information gathered by the Panel, Abu Sikin and nearby villages were subjected to a series of violent attacks by hundreds of armed men, identified as Janjaweed and SAF, which resulted in 37 civilian deaths, three rapes, abductions, the destruction of properties, the burning of houses and the looting of a large number of livestock.

Figure 23
Burned houses in Abu Sikin village

261. In October 2006, about 20 armed persons alleged to be Janjaweed, came in about 15 vehicles from Kutum via Umm Sayala, looted properties and livestock, and killed six civilians. In December 2006, armed men, wearing khaki, green and camouflage uniforms, similar to the ones worn by SAF, and believed to be members of the Border Intelligence Guard, came in a large convoy of more than 60 Landcruisers mounted with heavy weapons such as rocket-propelled grenades, machine guns and Kalashnikovs, and attacked the villagers in the night. They set fire to the houses and killed two people, one of whom was a 105-year-old person who was burned alive. They abducted eight girls, five of whom managed to escape; however, three were raped and sent back home naked. The witnesses mentioned that the girls were sent to El Fasher for medical treatment, and that reports were filed with the authorities to no avail.

262. The Panel was informed that, after that incident, the local commanders signed an agreement with the Government of the Sudan, but the villagers have not yet returned to their villages as they fear further attacks against them.

Discussion and findings

263. The findings of the Panel can be summarized as follows:

(a) Abu Sikin village and several villages in the vicinity were attacked by armed militia groups, supported by various SAF elements (believed to be from the Border Intelligence Guard), in October and December 2006;

(b) The attacks resulted in the killing of civilians and the destruction of civilian property, thus constituting acts that violate international humanitarian and human rights law;

(c) Armed militia groups from the area of Umm Sayala, north of Abu Sikin, participated in the attacks, supported by members of the Border Intelligence Guard;

(d) The Government of the Sudan has provided information to the Panel indicating that a complaint pertaining to the attacks on Abu Sikin in October 2006 was registered under articles 139, 149 and 175 of the 1991 Criminal Act. The current status of the case is unknown.

Case study 4
Jebel Moon, Western Darfur, October 2006

264. This case study relates to attacks in the Jebel Moon area, Western Darfur, during October 2006. Jebel Moon is a mountainous area in Western Darfur controlled by JEM and factions of SLA. Combined SAF and Arab militia groups have carried out two major attacks against the civilian population since 2005. Furthermore, splinters of various armed groups and significant numbers of infiltrators from Chad engage in criminal and apparent politically-motivated violence. This area of Western Darfur has therefore presented a complex security environment over the past two years. This has a continued negative impact on the local population, the safety of internally displaced persons, and the delivery of humanitarian assistance.

265. On 28 September 2005, Arab militia attacked the Aro Sharow internally displaced person camp, as a result of which 27 people were killed and a large portion of the camp was looted and burned. Sudanese Armed Forces, who were based 300 m away, did not intervene or assist the internally displaced persons. On 18 November 2005, there was another similar attack that left eight civilian internally displaced persons dead and more property was looted and destroyed.

266. On 28 July 2006 a combined force of Sudanese Armed Forces and armed militia in 82 military Landcruiser vehicles and mounted on camel and horses attacked the villages of Gosmino, Krolongo, Alona and Faulko.[21] Several civilians were killed and abducted. The attackers looted and set fire to the villages. The same force also attacked the internally displaced person camps at Aro Sharow and Gosmino. These attacks were reported in the October 2006 report of the Panel of Experts (S/2006/795).

[21] These attacks are described in detail in African Union Ceasefire Commission violation report number 005/06, entitled *Alleged GOS Attack on SLA and JEM in Jebel Moon on 28 July 2006* (El Fasher, Sudan: African Union Ceasefire Commission, August 2006).

267. The attack on 29 October 2006, which is the subject of this case study, occurred at a time when the corridor north of El Geneina up to Jebel Moon posed a very high security risk to human rights and humanitarian access. [22]

Summary description of events

268. On 29 October 2006, several villages and an internally displaced persons camp located south and west of the Jebel Moon area were attacked by an Arab militia group with an estimated strength of several hundred, resulting in the killing of an estimated 50 to 70 civilians (mostly children and elderly people).[23] According to reports from witnesses, the attackers were from the Gimir tribe located in the Jebel Moon area. Most of the attackers were mounted on horses and wore green camouflage military uniforms and were armed with modern assault rifles.

269. The build-up of Arab militia was reported a month earlier, but the Sudanese authorities did not intervene or disperse them. A Sudanese Armed Forces garrison is located nearby at Guzmino, but they did not intervene before, during or after the attacks. The villages and locations worst affected by the attacks included Hashaba, Damara, Kiskis, Khabesh, Hila Awin, Agra, Haskanita, Taif and the Hijilija internally displaced persons camp. The attacks resulted in the displacement of several thousand residents because of fears for their safety. Livestock and other civilian property were also looted during the attacks.

Discussion and findings

270. Early in March 2007, the Panel undertook preliminary field investigation visits to two locations in the Jebel Moon area, as well as a visit to the African Union military group site-Kulbus, in pursuit of its investigations in this case. During the visits to the Jebel Moon area the Panel met with community leaders and representatives from the SLA and JEM.

271. The findings of the Panel can be summarized as follows:

(a) The attacks in the Jebel Moon area on 29 October 2006 involved acts that constitute violations of international humanitarian and human rights law, including the targeting and killing of civilians and the destruction and looting of civilian property;

(b) On the basis of eyewitness testimony, it would appear that the attacking armed militia groups were affiliated with or drawn from the Gimir tribe;

(c) In response to these attacks, the Governor of Western Darfur established an investigative Committee and promised to prevent similar events in the future. The Committee has yet to publish its report on the attacks, the consequent loss of

[22] This case has also featured in a report of the Office of the United Nations High Commissioner for Human Rights. See: United Nations High Commissioner for Human Rights, *Sixth periodic report of the United Nations High Commissioner for Human Rights on the situation of human rights in the Sudan: 29 October 2006: attack on villages around the Jebel Moon area* (Geneva: Office of the United Nations High Commissioner for Human Rights, 3 November 2006).

[23] The African Union military group site at Kulbus conducted an investigation in the general area of the attacks and gathered information that the Arab militia attackers numbered between 700 and 1,300 (interview with African Union military group site representatives during a visit to Kulbus military observer group site by members of the Panel on 3 March 2007).

life and damage to property. Moreover, it appears that no investigations have been initiated with a view to securing criminal prosecutions.

Case study 5
Sirba, Western Darfur, November 2006

272. This case study relates to attacks on the village and immediate surrounding area of Sirba in Western Darfur on 11 November 2006, during which at least 11 civilians were killed. The Panel attempted on two occasions to undertake a mission to Sirba; however, that was not possible due to the high level of insecurity in the area at that time. The Panel did, however, undertake two visits to the AMIS military observer group site at Kulbus to gather information on this case.

Summary description of events

273. On 11 November 2006, the village of Sirba was attacked by an armed militia group with an estimated strength of several hundred on horses and camels and in Landcruiser vehicles. The attackers targeted the civilian population and civilian property, resulting in the killing of 11 civilians; in addition, between 7 and 12 civilians sustained non-fatal injuries.

274. A large number of homes in the village were destroyed during the attacks, and civilian property was looted in the village.

Discussion and findings

275. On receiving reports that Sirba had been attacked, the African Union tasked a patrol to go to Sirba to investigate the attack. The patrol left its base at Kulbus on 13 November 2006. Near the village of Selea, the African Union patrol discovered that a large force of Arab militia had taken up an ambush position against it in a wadi. After interaction with the Arab militia leader, the African Union patrol was allowed to proceed, but it immediately came across a larger group of Arab militia. The members of the militia group were dressed in civilian dress. Many of the militia were travelling in the types of militarized Landcruiser vehicles used by the Government of the Sudan, while a large number of other members of this group — estimated at several hundred — were riding camels and horses. The African Union members noted that the group were all armed with new assault rifles. The demeanor of the militia was hostile, and the African Union patrol decided to return immediately to its base at Kulbus.

276. The following day the African Union military observer group site Commander went to the Government of the Sudan military base in Kulbus to discuss the incident of the previous day. While there he saw 31 military Toyota Landcruisers arrive at the base. The vehicles were manned by men dressed in civilian Arab dress. He was surprised when the Commander of the Government of the Sudan military base saluted the man in the lead vehicle. He recognized this man as the person with whom he had discussions the previous day at the wadi. Later he met this man again when he was dressed in full military uniform, and was introduced to him as a colonel of the Sudanese Armed Forces. They spoke about their meeting the previous day at the wadi and the SAF colonel.

277. The commander of the SAF garrison at Kulbus in November 2006 — Lieutenant Colonel Rabie — later told the African Union commander that the SAF

colonel was in charge of a group of Government of Sudan forces that were conducting special operations in the area, but he would not disclose the nature of the operations.

278. A representative of SAF in Darfur interviewed by the Panel denied that any special military operations had been conducted in the area of Sirba at that time. He also denied that the Government of the Sudan military would ever conduct any military operations dressed in civilian clothes or that Government of the Sudan military conduct military operations together with Arab militia.

279. The findings of the Panel can be summarized as follows:

(a) The village of Sirba was attacked on 11 November 2006, as a result of which 11 civilians were killed and between 7 and 12 civilians were seriously injured;

(b) Civilians were targeted directly by the attackers, constituting a violation of international humanitarian law;

(c) On the basis of information gathered from primary interviews and secondary sources, it is apparent that the attack was undertaken by members of the armed forces of the Government of the Sudan (although they were in civilian clothes) operating with a large number of unidentified combatants;

(d) The Panel has identified individuals whom it believes were involved in the attack on Sirba village.

Case study 6
Hilif, Northern Darfur, November 2006

280. This case study relates to a coordinated air and ground attack that took place in the area of Hilif in late November 2006. The Panel has investigated the attacks by collecting and analysing information from verifiable sources and by conducting a field mission to Hilof and the surrounding area, where first-hand accounts of witnesses were obtained.

Summary description of events

281. On 26 November 2006, at about 0800 hours, the village of Hilif suddenly came under air attack from two SAF Antonov aircraft and two Mi-24 military attack helicopters. Bombs were dropped randomly by the Antonov aircraft and rockets and machine-gun rounds were fired from the Mi-24 attack helicopter. The population fled from their homes and village. The air assault was immediately followed by a ground attack consisting of some 60 militarized Toyota Landcruisers carrying about 200 soldiers and about 400 men (described by witnesses as Janjaweed) mounted on camel and horses that swept into the village from the north. The military vehicles were fitted with 12.6-mm ("duska") machine guns.

282. There was no resistance to the attack. The attack itself lasted about an hour, but the attackers remained in the village for the entire day and night, looting and then burning the village. Trucks had accompanied the attackers and pillaged goods were loaded onto these vehicles. The livestock that belonged to the villagers was also stolen. During the attack, 23 men were killed and buried in two graves about 4 km from the village.

Figure 24
Site of mass grave close to Hilif village, Northern Darfur, in which 23 victims of attacks in November 2006 are buried

283. In the months following the attack, SAF aircraft have flown reconnaissance patrols over the village, but have not again directly attacked the village. These overflights panic the population, particularly children, who are thoroughly traumatized by these events.

284. On 29 June 2006, an Antonov aircraft dropped 12 bombs south of the village. No deaths, injuries or property loss resulted from this bombing. The craters of these bombs were inspected and confirmed by a United Nations field mission in June 2007.

285. Other villages in this vicinity have also recently experienced aerial bombardment. Umm Hosh was bombed on 5, 8 and 22 June 2007; the nearby villages of Birmagi and Tamis were also bombed on about 15 June 2007. Later the outskirts of the villages of Umm Rai, Frog and Ensero were bombed. Birmazi was bombed on 20 June 2006, and 10 civilians were reportedly injured. Livestock was also killed and injured.

Discussion and findings

286. The findings of the Panel can be summarized as follows:

(a) The village of Hilif experienced a coordinated air and ground attack on 26 November 2006, conducted by members of the Sudanese Armed Forces and allied militia groups;

(b) The attack included indiscriminate aerial bombardment (which failed to take adequate precaution to protect civilians) and attacks directed against the civilian population, thereby constituting violations of international humanitarian law;

(c) The Panel visited the site of a mass grave close to the village of Hilif, which several witnesses indicated contained the bodies of civilians from Hilif who were killed in the surrounding area as they fled the attack and sought refuge away from the village;

(d) Without further forensic examination, it is not possible to confirm definitively whether the alleged mass grave contains the bodies of the victims of the attack. However, the grave site, as examined, is consistent with a grave that would contain the said number of bodies;

(e) Information gathered by the Panel appears to indicate that some of the attackers may have come from Umm Sayala, the same location that was identified as the source of the attacking militia in Abu Sikin (see case study above).

Case study 7
Deim Bishara, Southern Darfur, December 2006

287. This case study focuses on aerial and ground attacks that took place in the area of Deim Bishara, Southern Darfur, on 8 December 2006, and from 23 to 27 December 2006.

Summary description of events

288. The village of Deim Bishara is inhabited by people of the Kaba, Zaghawa, Massalit, Addaraqs, Bararit and Keroje tribes and is made up of several villages: Tomar, Sungo, Tulus, Digrosho and others. The area has been under the military control of JEM Abu Ruisher faction, under the command of Siddiq Abdul Karim Nassir.[24] Deim Bishara was attacked on two previous occasions — 30 September 2006 and 10 November 2006. The second attack apparently affected only Tomar, Sungo, and Tulus.

289. On 8 December 2006, a force of Sudanese Armed Forces and armed militia attacked the villages. The attack was followed later by aerial bombing conducted by Government of the Sudan Antonov aircraft and Mi-24 military attack helicopters. Bombs struck and destroyed/damaged a school, several shops, a grinding mill, a car, a generator set and some huts on the outskirts of Digrosho village.

290. African Union investigators confirmed finding bomb craters of exploded ordnance, as well as unexploded ordnance. AMIS was not able to accurately confirm the causalities, which were given as 17 killed, 21 injured and 12 children missing.

291. The Panel has independently confirmed that SAF Antonov and Mi-24 aircraft took off from Nyala airport early on the morning on 8 December 2006, and returned in the afternoon of the same day. Furthermore, in a comment on the incident, the Government of the Sudan representative with the African Union, Colonel Mohamed Kamal Nour, noted in writing on 22 December 2006: "The aircraft used [in the

[24] This individual is also mentioned in the Panel's case study concerning attacks in the Buram locality.

attack] was Antonov, not helicopter gunship."[25] He has maintained that the Government of the Sudan was reacting to Government of the Sudan intelligence that there was an assembly/movement of NRF forces that was a threat to Government of the Sudan forces based at Sungo (a few kilometres north of Deim Bishara); that it was that assembly area, not the village, that was attacked. He also claimed that Government of the Sudan intelligence was that the inhabitants of Deim Bishara had abandoned this village "for quite a long time" and were now living at Digrosho.

292. It is noted that the damage to the school and shops was in the village of Digrosho, a village that, according to Government of the Sudan intelligence, was known to be inhabited by the people of this village and the refugees from Deim Bishara.

293. In late December 2006, Deim Bishara again came under attack by SAF and armed militia forces, followed by aerial bombing. An African Union investigation confirmed that there was evidence that the village was attacked between 23 and 27 December 2006. Two bomb craters were found that supported the reported bomb attack. They also confirmed that a white Antonov aircraft was also seen independently flying over Gereida on the same day at 1000 hours. The African Union investigation also found that aspects of the attack seemed to be exaggerated. They concluded that there was a single bombing incident on 24 December 2006, by a white Antonov aircraft belonging to SAF.

Discussion and findings

294. The Panel was unable to travel to the area of Deim Bishara during its missions to Darfur due to insecurity in the area and (during May 2007) ongoing military operations in the area.

295. The findings of the Panel can be summarized as follows:

(a) Villages in the area of Deim Bishara experienced a coordinated ground and air attack on 8 December; while there are confirmed reports of a subsequent aerial attack in the area on 24 December, the Panel could not confirm additional reports of attacks at the end of December;

(b) The aerial bombardment was indiscriminate and failed to take adequate precaution to protect civilians and civilian property. The Government of the Sudan has acknowledged the use of Antonov aircraft in the aerial attack, and has indicated that it has prior knowledge of the presence in Digrosho of civilians, in advance of the attack;

(c) The attack on 8 December 2006 thereby constitutes a violation of international humanitarian law.

Case study 8
Eastern Jebel Marra, Northern/Southern Darfur border, December 2006

296. This case study focuses primarily on attacks that took place in eastern Jebel Marra, specifically in the areas of Deribat and Dobo, during December 2006. The Panel's investigations into this case involved primary interviews and a field visit to

[25] African Union Ceasefire Commission, *CFC Ceasefire Report No. 019/07*, 24 January 2007.

eastern Jebel Marra (August 2007) and extensive analysis of secondary information/reports.

Summary description of events

297. Eastern Jebel Marra, Western Darfur, is a traditional SLA stronghold, where between December 2005 and April 2006 armed clashes occurred between SLA factions and Government of the Sudan forces supported by Arab militia and an armed group of Fur allied with the Government. The conflict prompted the displacement of inhabitants from several villages, and caused the evacuation of the international humanitarian presence from the area.

298. On 11 September 2006, Deribat and other surrounding villages came under aerial attack. SAF fighter aircraft believed to be Fantan jets made low overhead passes, causing panic, while Mi-24 helicopters fired rockets and fired bursts of machine-gun fire into the village. Antonov aircraft dropped bombs randomly onto the village and surrounding areas. This aerial assault continued periodically until 11 December 2006. During this time the village came under 13 aerial attacks, and a total of about 50 bombs and rockets impacted on or near the village. Nobody was killed as a result of these attacks, but a total of 37 people were injured. Similar attacks occurred on the surrounding villages.

299. In late December 2006 ground forces consisting of Government of the Sudan military, Arab militia and Fur tribesmen loyal to the Government launched an attack on the village of Katur and other villages south of Deribat. The attack was preceded by an aerial assault, which caused the villagers to evacuate the village. On observing the ground forces, the villagers fled further to a nearby hill, where they were able to observe their village. They saw Government of the Sudan military in Toyota Landcruiser vehicles mounted with 12.6-mm machine guns and Arab and Fur men mounted on camel and horses. The attack occurred in a coordinated manner.

300. Attackers swept through the village firing machine guns and other weapons into the houses and shops of the village. The attacking force immediately commenced looting and loaded the pillaged goods into trucks. These included household goods; the stock of three shops; three machines for grinding corn; three water pumps; corrugated roof sheeting; doors; windows; and stock. Seventeen villagers were killed in the attack and 3 persons were injured.

301. Defensive earth works were quickly established by the attackers and many houses and buildings were set alight. The Government of the Sudan military established a garrison at Katur. Outlying wells and watering points were contaminated when Government of the Sudan forces dumped dead carcasses of livestock into the wells.

302. Similar attacks occurred in other villages, but Katur was the furthest point of the attack into territory held by SLA factions. Several thousand civilians were displaced from their villages as a result of the attacks, and they are now residing in Deribat.

303. Villagers reported to the Panel during the field visit to Deribat on 14 August 2007 that 34 women had been raped during the attacks. The United Nations has documented and confirmed 15 cases of rape during these attacks. The rapes appear to have been systematic and used as a weapon of war to cause humiliation and instil fear into the civilian population.

304. In April 2007, SLA factions launched a military operation and drove SAF out of Katur and other surrounding areas, re-establishing their control over these areas.

305. Civilians have largely refused to return to their homes in the villages of Suni, Jawa, Leiba, Faluja, Katur, Doba Umda and Dobo Madressa, as they fear further attacks. The homes of many displaced persons have been destroyed; they do not have livestock or crops to sustain themselves and they are uncertain about the quality of the water.

306. Even though the eastern Jebel Marra area is mainly under the control of SLA factions, all the roads leading to this area are under the control of Government of the Sudan forces, who are blockading goods to and from eastern Jebel Marra. This coupled with the continued absence of humanitarian assistance to the area is causing considerable human suffering.

Discussion and findings

307. The findings of the Panel can be summarized as follows:

(a) The Panel has established that attacks were conducted by the Government of the Sudan armed forces, Arab militia groups and Fur tribesmen in the area of eastern Jebel Marra in December 2006;

(b) The attacks involved acts of direct targeting of civilians and civilian property, looting and the systematic use of rape as an instrument of warfare during the attacks, thereby constituting violations of international humanitarian law;

(c) The Government of the Sudan has not investigated the alleged rapes perpetrated during the attacks;

(d) When the Panel made enquiries of the Office of the Public Prosecutor in Nyala dealing with this case, the Panel was informed that the matter had been referred to the military for investigation and that the file had not yet been returned to the Prosecutor. Considering that there has been no attempt to interview the victims, it can only be concluded that no meaningful investigation is occurring.

Case study 9
Bulbul, Southern Darfur, January-March 2007

308. As a result of an ongoing dispute between members of the Arab tribes of Tarjum and Rizeigat Abbala in the Bulbul area of Southern Darfur, armed conflict commenced between the two groups in January 2007 and continued until the end of March 2007.

Summary description of events

309. Large-scale attacks during the period January to March 2007 resulted in over 100 people killed, many injuries, looting, the destruction of property and the displacement of over 1,000 people in the (predominantly Tarjum) villages of Mohajirya-Moraya, Mohajirya-Ajami, Missik, Mordade, Giderke, Maramandi, Amar Jadeed and Morayajengay.

310. In an attack that occurred on 31 March 2007, the Tarjum village of Morayajengay was attacked and 60 people were killed. While these groups have a history of tribal disputes, the intensity of the recent fighting was extraordinary. That

can be attributed to the involvement of Sudanese military/security personnel, weapons and military Landcruiser vehicles that are fitted with 12.6-mm machine guns.

Discussion and findings

311. The findings of the Panel in this case are:

(a) It has been established that the Border Intelligence Guards were involved in the fighting in the Bulbul area of Southern Darfur at the end of March 2007;

(b) Victims in the affected villages knew their attackers by name and independently identified specific Border Intelligence Guard commanders as having been present. Witnesses reported that the attacks on villages commenced by the attackers firing from the outskirts of the settlements with heavy vehicle-mounted machine guns, rocket-propelled grenades and, in some instances, mortars, before entering the settlements and targeting any men found inside. They then systematically looted items of value, particularly livestock, before setting the village alight;

(c) It was known to the Government that members of its security forces, i.e. the Border Intelligence Guards, were using Government military vehicles and weapons in the fighting. Despite that, the Government did not take effective action (over a three-month period) to stop and prevent this activity. The Government's intervention was confined mainly to promoting reconciliation. This was inadequate and failed to prevent further loss of life, injuries and destruction of property;

(d) Furthermore, insufficient action was taken by the Government to identify and prosecute those responsible.

Case study 10
Umm Rai, Northern Darfur, April-May 2007

312. This case study focuses on a range of attacks undertaken by parties to the conflict in the area of Umm Rai in Northern Darfur during April and early May 2007. The case study features two facets that are relevant to various areas of investigation of the Panel, including acts that constitute violations of international humanitarian or human rights law and the conduct of offensive military overflights. The case study analysis presented here focuses on the aspects of the case relevant to violations of international humanitarian law.

313. The description of events presented below is based on primary investigations of the Panel, including visits to Umm Rai and nearby villages in Northern Darfur, during May and August 2007 and on secondary reports and interviews.

Summary description of events

314. During the period 19 April to 1 May 2007, the village of Umm Rai (Northern Darfur) and several other villages in the surrounding area were subjected to aerial bombardments by SAF Antonov aircraft and Mi-24 attack helicopters. Other villages attacked during this period included Anka, Hashaba, al-Jirah, Umm Hosh and Birmaza.

315. The attacks on the village of Umm Rai on 29 April 2007 included use of air-to-surface missiles launched from SAF Mi-24 attack helicopters and unguided

aerial bombs. The aerial attacks by the Mi-24 helicopters resulted in damage to the school, the market area and several houses in Umm Rai. Two women (one of whom was pregnant) were reported to have been killed as a result of wounds inflicted from aerial missile/bomb fragments or shrapnel.

Figure 25
Bomb crater between the villages of Umm Rai and Anka, 10 May 2007

316. On 29 April, one of the two SAF Mi-24 in the area crashed in a location approximately 15-20 km from Umm Rai village. There are conflicting accounts of the cause of the crash. However, one SAF pilot was killed in the crash; another pilot survived and was detained by one of the non-State armed groups operating in the area.

317. Following the crash of the Mi-24 aircraft, there was a wave of aerial bombardments on the villages surrounding Umm Rai.

Discussion and findings

318. The area of Umm Rai had been identified as a location in which several of the non-signatory factions (those that had not signed the Darfur Peace Agreement) would gather for discussions and negotiations regarding unification of the various factions and agreement on a unified negotiating approach. The Government of the Sudan undertook in early 2007 not to attack the area so that the assembled groups could engage in consultations. The Government of the Sudan attached several conditions to this commitment, including, for example, that the non-State armed groups would not amass forces in the area of Umm Rai.

319. On 24 February 2007, the Government of the Sudan notified the African Union Ceasefire Commission Chairman that the Government found itself at that time under no obligation whatsoever with regard to NSF gathering in Umm Rai. Representatives of SAF have stated to the Panel that that action was taken because it was believed that the NSF groups were amassing vehicles and combatants in the area.

320. During the Panel's field mission to Umm Rai and Anka on 10 May 2007, the Panel interviewed eyewitnesses who attested to the attacks on Umm Rai on 29 April

2007. On that same day, an Antonov aircraft and two SAF Mi-24 attack helicopters were observed departing from El Fasher at approximately 1030 hours.

321. In Umm Rai, Panel members inspected the sites of the attacks, which included the school and market area in Umm Rai. The Panel solicited information during interviews as to whether combatants or NSF vehicles had been in the school or market areas when they were attacked, and witnesses stated that that had not been the case. Moreover, the Panel observed several fresh craters from exploded aerial bombs and helicopter-launched air-to-surface missiles.

322. The Panel has heard varying accounts as to the cause of the crash of the SAF Mi-24 attack helicopter on the day of the attacks. It has not been possible to determine, at this stage, whether the helicopter crashed as a result of hostile fire or whether the helicopter crashed due to a technical failure. It is apparent from the helicopter crash site that the helicopter crash-landed with some force. This contradicts one of the explanations provided by the Government of the Sudan, which was that the aircraft was able to land and was then attacked on the ground by members of NSF groups.

323. The findings of the Panel on this case can be summarized as follows:

(a) The Government of the Sudan conducted aerial bombardments on the village of Umm Rai and targeted villages in the surrounding area between 19 April and 1 May 2007;

(b) The aerial attacks resulted in the destruction of civilian property and the killing of at least two civilians. The attacks were indiscriminate and the attacking combatants failed to take adequate precautions as they launched attacks against a school, the market area and civilian homes in Umm Rai;

(c) The attack on Umm Rai constituted a violation of international humanitarian law;

(d) The non-State armed group that captured one of the Sudanese Mi-24 pilots failed to take adequate measures to protect the prisoner, as he was reportedly killed a number of days following his detention.

E. Findings: violations of human rights in Darfur

324. The unique mandate of the Panel of Experts pertaining to violations of international human rights law — over and above the work of United Nations human rights observers working in Darfur, the Human Rights Council fact-finding mission(s), and the work of the Special Rapporteur on the situation of human rights in the Sudan — is to provide information on individuals who commit such violations.

325. The Panel has developed a comprehensive image of the pattern and shifting trends in violations of human rights in Darfur since the inception of the conflict in 2003. The Panel considers human rights as the rights of individuals, with States and other parties (under treaty-based international human rights law) bearing responsibility to protect and fulfil those rights. In this regard, the Panel adopted the approach that all parties to the conflict in Darfur have a responsibility to safeguard and protect human rights, while the Government of the Sudan has an added responsibility under the relevant human rights treaties.

326. In light of the scope and intensity of the violations of human rights in Darfur, the Panel focused its attention primarily on the threats to and violations of the non-derogable human rights identified above, especially the right to life and the right to be protected from torture and cruel, inhuman or degrading treatment or punishment. Moreover, the Panel focused on violations to human rights arising from the conflict in Darfur. The Interim National Constitution of the Sudan, the International Covenant on Civil and Political Rights and the Convention on the Rights of the Child all provide that certain rights can never be derogated from, including the right to life.

327. During the early stages of the conflict in Darfur, threats to the right to life arose from the significant military engagements between the non-State armed groups and the Government of the Sudan or from coordinated actions by the Government of the Sudan and allied militia groups against civilians. As has been demonstrated earlier in this report, the number of significant military engagements between parties to the conflict has decreased since early 2007 (see fig. 1). However, the threats to the right to life remain as a result of the general level of lawlessness, the prevailing atmosphere of impunity or absence of accountability, the inability of the existing AMIS force to effectively protect the civilian population and the failure of the Government of the Sudan and other parties to the conflict to take the necessary steps to safeguard human rights.

328. The 10 case studies presented above provide examples of attacks/hostilities during which the right to life of civilians was violated and during which civilians were subjected to cruel, inhuman or degrading punishment. The Panel has, in most of these cases, been able to identify individuals who committed the acts described, and this information is provided in a confidential annex to this report.

329. All parties to the conflict have committed serious violations of human rights in Darfur, to a greater or lesser extent. The case studies presented in this report include examples of violations of human rights committed by the armed forces of the Government of the Sudan, including paramilitary and quasi-military forces such as the Popular Defense Force and the Border Intelligence Guard. The involvement of elements of these forces in attacks investigated by the Panel has been acknowledged by the Government of the Sudan.

330. Members of the SLA/MM armed groups have consistently committed grave violations of human rights in areas where the armed group has a presence, including in Gereida, Southern Darfur, and Tawilla, Northern Darfur. These violations have included violations of the right to life (for example, the killing of SLA/MM detainees in Gereida) and subjecting persons to cruel and inhuman treatment (harassment and beatings in Tawilla and elsewhere).

331. Armed groups associated with tribes in Darfur — members of tribes including Tarjum, Aballa (Northern Rizzegat), Habbaniya and Fallata — have also committed blatant and serious violations of human rights during engagements with other tribes or non-State armed groups. These have included violations of the right to life, as in the cases of the attacks in the Buram locality and in the Bulbul area, both in Southern Darfur.

Actions taken by parties to the conflict to safeguard human rights

332. The Panel has gathered information to assist in assessing the actions taken by parties to the conflict to safeguard and fulfil human rights, taking into account their particular legal obligations.

Government of the Sudan

333. The Government of the Sudan has been eager to portray an image of taking aggressive steps to investigate allegations of human rights violations in Darfur. The Government of the Sudan does face constraints in taking steps to protect and fulfil human rights in Darfur, foremost among which is the inability of Government authorities to access certain areas due to insecurity or because they are under the de facto control of non-State armed groups.

334. Notwithstanding these constraints in certain geographical areas, the Panel has found that the Government of the Sudan has abjectly failed to fulfil its obligations to prevent and address violations of human rights in Darfur in a proactive manner. The Panel bases this assertion on, among other sources of information, data and documents provided by the Government of the Sudan and interviews with representatives of the Ministry of the Interior, the Offices of the Attorneys General in Northern and Southern Darfur, and representatives from the Advisory Council on Human Rights and other sections within the Ministry of Justice. The Panel has arrived at this finding based in part on the following facts:

(a) In situations where there is evidence of gross violations of human rights for which the national police has not received a complaint about the incident/attack, even in areas under the control of the Government of the Sudan, efforts have not been taken by the Attorneys General in the states of Northern, Southern and Western Darfur to initiate cases by their own volition, as provided for under Sudanese law;

(b) The Office of the Public Prosecutor in Nyala has stated to the Panel that the resources have not been made available to provide investigations to follow up on allegations of human rights violations in Southern Darfur;

(c) In cases where alleged perpetrators of significant attacks have been identified, in many instances investigations do not proceed past a commission of inquiry to a criminal investigation.

335. Moreover, the Government of the Sudan has provided information to the Panel on cases pertaining to violations of human rights in Darfur. The statistics provided by the Advisory Council on Human Rights identify 10 cases discharged by the General Criminal Court in El Fasher, involving members of the armed forces during the period 1 January to 21 December 2006. Four cases pertaining to violations of human rights were also presented before the Kutum Criminal Court (Northern Darfur), although the period covered is unclear from the information provided to the Panel. Sixteen cases were presented before the Kabkabiya Criminal Court in Northern Darfur during 2006.

336. The Advisory Council on Human Rights has also furnished information on four "sentenced cases" in Southern Darfur during 2006. The exact classification of the cases is not clear from the information provided; however, for three of the cases verdicts were handed down during the first half of 2006 and judgement of sentence remains pending.

337. The Panel requested information from the Ministry of Justice on the status of the Special (Federal) Criminal Court, which deals with cases arising from the conflict in Darfur. The Panel did not receive the requested information.

338. The Government of the Sudan Minister of Justice, Mohamed Ali al-Mardi, and Minister of the Interior, Mr. El-Zubair Bashir Taha, have failed to take steps to effectively investigate violations of human rights in Darfur or to protect individuals' human rights in Darfur.

339. In cases of human rights violations arising from intertribal disputes and fighting, the Government of the Sudan at the central level in Khartoum and in the states of Northern, Southern and Western Darfur has failed to take the necessary steps to: (a) prevent further violations of human rights when there have been clear indications of ongoing violations; and (b) investigate allegations of human rights violations arising from intertribal conflict (as in the cases of Buram and Bulbul).

Sudan Liberation Army/Minni Minawi faction

340. The SLA/MM armed group, under the control of Presidential Senior Assistant Minni Minawi, has failed to take steps to investigate and address violations of human rights (a) allegedly perpetrated by members of the armed group; and (b) perpetrated in areas under the de facto control of SLA/MM.

341. SLA/MM has failed to effectively investigate the case involving the disappearance and subsequent killing of persons previously detained by the group. Moreover, Minni Minawi and the senior political and military leadership of the armed group have failed to enforce accountability among members of the group, which has reinforced a perception of tolerance for human rights violations and impunity.

Tribal militia groups

342. The leaders of certain tribes in Southern and Northern Darfur, especially those allied with or supported by the Government of the Sudan, have failed to prevent violations of human rights by members of militia groups associated with these tribes and have failed to enforce accountability for violations of human rights perpetrated by members of the tribe. These tribes include the Tarjum, Habbaniya, Aballa (Northern Rizzegat) and Fallata.

Sexual- and gender-based violence

343. The Panel has gathered and analysed information on alleged incidents of sexual- and gender-based violence in Darfur, drawing on primary field investigations and interviews, validated information from the United Nations and other sources, and information provided by the Ministry of the Interior of the Government of the Sudan.

344. The findings of the Panel portray an image of a significant number of reported cases of sexual- and gender-based violence in Darfur arising both directly from the conflict and as a result of the pervasive insecure environment, the lack of enforcement of accountability upon those who commit such acts and the attendant sense of impunity. Many of these cases are never reported, neither to the police nor to medical clinics, due to the potential social stigma attached to victims of sexual- and gender-based violence, the lack of police presence in many areas of Darfur and

the demonstrated unwillingness of police to follow up on complaints of sexual- and gender-based violence in areas where they have a presence.

345. Many cases are reported to medical clinics when victims seek treatment there, and since changes were made to the procedure for reporting cases of rape (now victims can seek medical assistance without first having to report the incident to the police), there are likely a large number of cases that are never reported to the police. Of the cases reported to the police, a smaller number result in investigations and an even smaller subset result in criminal prosecutions.

346. According to statistics provided to the Panel by the Ministry of the Interior, the number of reported cases of rape (from information gathered from police stations in Darfur) for each of the states of Darfur during 2006 was: Northern Darfur, 29; Southern Darfur, 24, and Western Darfur 19. This represents a total number of 72 reported cases of rape in all states of Darfur for 2006, compared to 64 during the previous year. Updated information provided by the Ministry to the Panel in August 2007 indicates a total of 43 registered rape cases in Darfur during the first five months of 2007. It should be recognized that these data represent only a small percentage of total reported cases, for the reasons outlined above. The Panel has not been able to ascertain what percentage of these cases reported to the police have resulted in criminal investigations and possible subsequent criminal prosecution.

347. Data gathered and verified by the United Nations in the Sudan confirm 84 cases of rape and 55 cases of sexual assault in Darfur during 2006. Of the reported and (subsequently) confirmed cases of rape during this period, 42 cases (50 per cent) were reported to the police, while 27 cases (just under 50 per cent) of assault were confirmed to have been reported to the police.

348. The primary investigations of the Panel point to significant numbers of confirmed cases of rape and other forms of sexual- and gender-based violence associated with particular attacks; for example, in the case of the attacks in Deribat, eastern Jebel Marra, during December 2006.

F. Observations and recommendations

Individuals who impede the peace process

Recommendation 22
Designation of individuals who impede the peace process

349. The Security Council and its subsidiary Committee should consider the following individuals for designation as being subject to the measures outlined in Security Council resolution 1591 (2005), whether immediately or conditionally:

(a) **Abdul Wahid Mohamed al-Nur (conditionally)**: on the basis of the present report and future reports/briefings to the Security Council by the United Nations-African Union and additional future information from the Panel of Experts, the Committee should designate this individual as being subject to the measures of Security Council resolution 1591 (2005) if he and representatives from the SLA/AW faction obstruct the United Nations-African Union mediated peace initiative, including through adherence to unrealistic preconditions to negotiation;

(b) **Minni Minawi (conditionally)**: notwithstanding the participation of the SLA/MM faction under his control in the Darfur Peace Agreement and the

Government of National Unity, Minni Minawi has failed to take adequate steps to enforce accountability for the actions of members of the SLA/MM armed groups, thereby constituting an impediment to peace in Darfur. The Security Council should designate this individual as being subject to travel restrictions if he and the senior leadership of SLA/MM fail to enforce accountability among members of the armed groups under their control;

(c) **Adam Bahkit (immediately)**: this individual has received weapons from JEM leaders and has engaged in hostile actions — previously as a senior commander of NRF — in Darfur, thereby constituting an impediment to peace in Darfur.

350. The Panel has in its previous reports and confidential annexes provided information to the Council on individuals within the Government of the Sudan who by their acts of commission or omission have: (a) failed to identify, neutralize and disarm armed militia groups operating in Darfur; and (b) actually continued to provide logistical and operational support to tribal militia groups operating in Darfur. The Security Council should designate those individuals and the senior leadership of the Border Intelligence Guard in Khartoum and Darfur as subject to the measures in Security Council resolution 1591 (2005).

Recommendation 23
Briefings by United Nations and African Union Special Envoys

351. The Security Council or Committee should invite the United Nations and African Union Special Envoys leading the mediation efforts in Darfur to: (a) include in their briefings to the Council specific information on individuals who are impeding the peace process; and/or (b) provide a dedicated briefing to the Committee on individuals who are impeding the peace process.

Recommendation 24
Provision of information on the implementation of Security Council resolution 1769 (2007)

352. The Security Council and/or Committee should require of any future Panel of Experts that it provide explicit information on individuals or Member States who are impeding the implementation of Security Council resolution 1769 (2007).

Violations of international humanitarian law and international human rights law

353. The Government of the Sudan, SLA/MM, leaders of the Tarjum, Aballa (Northern Rizzegat), Habbaniya and Fallata tribes, among other parties to the conflict in Darfur, have committed grave violations of international humanitarian and human rights law in Darfur. The Panel is providing information on individuals who have committed acts that constitute violations of international humanitarian law and international human rights law — whether by acts of commission or omission — in a confidential annex to this report. The Panel has previously provided such information to the Committee and the Council. For many of the individuals identified by the Panel, the Security Council and the Committee have chosen not to designate the individuals identified by the Panel. The Panel has recommended that the Security Council and the Committee designate individuals who commit these acts as subject to the provisions of Security Council resolution 1591 (2005), as, in

the demonstrated absence of effective action by the concerned parties, this will assist in diminishing the sense of impunity among perpetrators.

Recommendation 25
Violation of human rights: identifying benchmarks for action by the Government of the Sudan, SLA/MM and other parties

354. The Security Council and the Committee should identify practical benchmarks to identify goals for, and measure progress towards, the protection and fulfilment of human rights by parties to the conflict in Darfur, which the parties would be required to reach in a prescribed time frame to avoid future action/designation by the Committee.

Recommendation 26
Role of UNAMID in preventing violations of human rights in Darfur

355. Implementation of the explicit mandate of UNAMID prescribed in paragraph 15 of Security Council resolution 1769 (2007) to take the necessary action to protect civilians should include steps to prevent violations of international human rights law, including steps to prevent intertribal violence, action to protect internally displaced persons in camps throughout Darfur, and proactive steps to deter aggression and attacks against civilians. Furthermore, UNAMID should take steps to apprehend individuals who are suspected of committing violations of international human rights law, in cases where the Government of the Sudan is unwilling or unable to pursue investigations of such violations.

Recommendation 27
Information from other sources on violations of international humanitarian and human rights law in Darfur

356. In light of the sources of information to the Committee identified in subparagraph 3 (c) of resolution 1591 (2005), the Committee should invite the Secretary-General, the United Nations High Commissioner for Human Rights and other relevant sources to present information to the Committee that may assist in identifying individuals who commit violations of international humanitarian and human rights law.

Annex I

List of institutions/individuals consulted

The listing of institutions/individuals consulted by the Panel provided below does not include certain individuals, organizations or entities with whom the Panel met, in order to maintain the confidentiality of the source(s) and so as not to impede the ongoing investigations of the Panel.

New York

Department of Peacekeeping Operations

Department of Safety and Security

Department of Political Affairs

Permanent Missions of Security Council members

Addis Ababa

AU Special Envoy, for Darfur — Salim Ahmed Salim

Secretary-Generals Special Envoy for Darfur — Jan Eliasson

United Nations Department of Political Affairs

United Nations Human Rights Council Fact-Finding Mission

Khartoum

Advisory Council on Human Rights

African Union Mission in the Sudan

Sudan Armed Forces

Civil Aviation Authority

National Intelligence and Security Service

Office of the Assistant Representative to the President on Darfur

Members of the Judiciary

Ministry of Defence

Ministry of the Interior

Ministry of Justice

Diplomatic representatives (various)

European Union (representatives)

United Nations Mission in the Sudan

United Nations Office for the Coordination of Humanitarian Affairs

Customs Authority

Ministry of Foreign Affairs

United Nations country team

University of Khartoum (Faculty of Law)

Darfur

African Union Mission in the Sudan

National Intelligence and Security Service

United Nations Mission in the Sudan

United Nations Emergency Relief Coordinator

Office of the United Nations High Commissioner for Refugees

Office for the Coordination of Humanitarian Affairs

Tribal leaders in Southern Darfur

Offices of the Attorneys General of Northern and Southern Darfur

Office of the Wali: Northern and Southern Darfur

Chad

Ministry of Defence

Customs Administration

Ministry of External Relations

Ministry of Justice

Ministry of Finance

Ministry of Territorial Administration

Office of the High Commissioner for Refugees — Abéché

Oxfam — Abéché

African Mission in the Sudan Military Group Site — Abéché

United Nations Development Programme Office — N'Djamena

Embassy of France

Embassy of the United States of America

United Kingdom

Her Majesty's Revenue and Customs

Ministry of Defence

Foreign and Commonwealth Office

Her Majesty's Treasury

The Bank of England

France

Interpol

The Netherlands

International Criminal Court

Geneva

Darfur Consortium

Small Arms Survey

Office for the Coordination of Humanitarian Affairs

Office of the United Nations High Commissioner for Human Rights

International Committee of the Red Cross

Annex II

Criteria for acts that impede the peace process or constitute a threat to stability in Darfur and the region

The nine categories of acts/omissions that constitute impediments to the peace process or threats to stability in Darfur developed by the Panel

Category	*Description*
Category I	A. Consistent, wilful and systematic violations of: • the provisions of the Darfur Peace Agreement of 5 May 2006 pertaining to ceasefire arrangements by the parties to the Agreement or • the N'Djamena Ceasefire Agreement of 8 April 2004, and associated Protocols, by parties to that Agreement B. Failure of belligerents other than parties to the Darfur Peace Agreement or N'Djamena Ceasefire Agreement operating in Darfur (e.g. non-State militia groups) to cease hostilities and to desist from acts such as those identified in article 24 of the Darfur Peace Agreement and article 2 of the N'Djamena Ceasefire Agreement
Category II	Acts intended to obstruct or prevent United Nations and African Union (joint or unilateral) peace initiatives in Darfur
Category III	Failure of the Government of the Sudan to identify, neutralize and disarm armed militia groups, in line with its commitments and obligations under the Protocol on the Enhancement of the Security Situation in Darfur (2004), relevant Security Council resolutions, especially resolution 1556 (2004) (para. 6), the communiqué issued jointly by the Government of the Sudan and the Secretary-General on 3 July 2004 (S/2004/635, annex) and the Darfur Peace Agreement of 5 May 2006
Category IV	Actions intended to exacerbate tensions between ethnic, tribal, political and other groups in Darfur
Category V	Provision of support (financial, military, logistical, other) to armed militia groups and other parties that are engaging in ongoing hostilities. This includes provision of safe haven to non-State armed groups
Category VI	Hostile acts committed against AMIS troops, civilian police or African Union Ceasefire Commission and United Nations personnel; other acts intended to impede or frustrate AMIS/United Nations/Ceasefire Commission operations in pursuit of their respective mandates
Category VII	Failure of parties to the conflict in Darfur to enforce accountability among combatants or other persons under their control for violations of international humanitarian or human rights law
Category VIII	Failure by the Government of the Sudan and other States to fully implement resolutions of the Security Council concerning the situation in Darfur, particularly Security Council resolution 1769 (2007)

Category	*Description*
Category IX	**A. Cross-border incursions by armed forces of States or State-supported armed groups into Darfur or other parts of the Sudan**
	B. Incursions by parties to the Darfur Peace Agreement and the N'Djamena Ceasefire Agreement, and other belligerents operating in Darfur into Chad or other States bordering western Sudan

Annex III

Significant security incidents in Darfur, September 2006 to July 2007

	Government of the Sudan	*SLA (MM)*	*SLA (AW)*	*Other SLA factions*	*NRF*	*JEM*
September	8	4	1	0	5	0
October	11	5	0	4	4	2
November	17	6	0	1	10	0
December	14	3	3	1	5	2
January	10	3	2	1	0	0
February	5	1	2	0	0	0
March	2	2	1	2	0	0
April	9	0	0	1	0	0
May	8	1	1	2	0	0
June	9	0	4	0	0	2
July	3	1	0	1	0	0
Total	**96**	**26**	**14**	**13**	**24**	**6**

Notes:

(a) The security incidents included here are those relatively large-scale incidents involving organized armed groups;

(b) The total number of such reported security incidents from September 2006 to July 2007 was 220;

(c) Multiple parties can be involved in a single incident;

(d) Involvement does not necessarily mean the party was the aggressor;

(e) Many other parties involved in security incidents during this time period are not included here;

(f) Government of the Sudan involvement includes ground attacks, air attacks, and combined attacks;

(g) NRF involvement includes Group of 19 involvement.

Annex IV

List of confirmed/unconfirmed aerial attacks in Darfur, September 2006 to July 2007

This list includes attacks utilizing bombs, machine guns, and rockets. United Nations reports are considered confirmed if the United Nations denoted that the event was "confirmed by several independent sources". AMIS reports are considered confirmed if an independent investigation concluded the event in fact occurred.

Date	*Location*	*State*	*Confirmed*
2 September 2006	Hillet Hajar (near Tabarat)	Northern Darfur	No
10 September 2006	Sendingo (near Tabarat)	Northern Darfur	Yes
10-12 September 2006	Turba	Southern Darfur	Yes
11-13 September 2006	Umm Sidir, Hashaba North	Northern Darfur	Yes
13 September 2006	South of Tawila	Northern Darfur	Yes
19 September 2006	Anka, Umm Rai, Umm Sidir, Kulkul	Northern Darfur	No
Late September 2006	Kursi	Northern Darfur	No
3 October 2006	Malagat	Northern Darfur	Yes
5-10 October 2006	Karyare	Northern Darfur	Yes
10 October 2006	3 km north of Tina	Northern Darfur	No
12-13 October 2006	15 km north of Kulbus	Western Darfur	Yes
13 October 2006	10 km north of Jebel Moon	Western Darfur	No
17 October 2006	North of Kulbus	Western Darfur	No
18 October 2006	5-10 km east of Birmaza	Northern Darfur	No
23 October 2006	North of AMIS site at Kulbus	Western Darfur	No
27 October 2006	Depo	Northern Darfur	No
4 November 2006	Birmaza area	Northern Darfur	No
8 November 2006	Kuma	Northern Darfur	No
14 November 2006	Disa	Northern Darfur	No
Mid-November 2006	Hillet Abu	Northern Darfur	No
16 November 2006	Birmaza area	Northern Darfur	No
18 November 2006	Sany Haya	Northern Darfur	No
22 November 2006	Hurier	Northern Darfur	No

Date	*Location*	*State*	*Confirmed*
25 November 2006	Mou	Northern Darfur	No
26 November 2006	Sany Haya area	Northern Darfur	No
26 November 2006	Helif, Malha	Northern Darfur	Yes
26-28 November 2006	Abu Jabra	Southern Darfur	Yes
4-5 December 2006	Futaha, Habib, Naier	Southern Darfur	No
5-6 December 2006	Shagbuba	Northern Darfur	No
5 December 2006	Kutum, Kulkul	Northern Darfur	No
5-9 December 2006	Dobo, Katur (Eastern Jebel Marra)	Northern Darfur	Yes
8 December 2006	Deim Bishara	Southern Darfur	Yes
10 December 2006	Tarny	Northern Darfur	No
10 December 2006	Madu	Northern Darfur	No
11 December 2006	Hashaba, Anka	Northern Darfur	No
11 December 2006	Deribat area	Southern Darfur	Yes
16-17 December 2006	Sayahh	Northern Darfur	Yes
18 December 2006	Abu Campora	Northern Darfur	No
20 December 2006	Goba area	Northern Darfur	No
21 December 2006	Hashaba	Northern Darfur	No
25 December 2006	Helif Sany	Northern Darfur	No
29 December 2006	Anka area	Northern Darfur	No
5 January 2007	Barmina, Bahia	Northern Darfur	No
16 January 2007	Anka area	Northern Darfur	Yes
18 January 2007	Korma	Northern Darfur	Yes
20 January 2007	Ein Siron	Northern Darfur	Yes
28 January 2007	Kela	Northern Darfur	No
30 January 2007	Dobo Umda	Northern Darfur	Yes
1 February 2007	Deribat, Katur	Northern Darfur	No
11 February 2007	Bamina	Northern Darfur	Yes
22 March 2007	Bahia area	Northern Darfur/Chad	Yes
24 March 2007	Asungo, Adi Kong	Western Darfur	No

Date	*Location*	*State*	*Confirmed*
1 April 2007	Sirba	Western Darfur	No
9-10 April 2007	Al Hosh	Northern Darfur	Yes
17 April 2007	Al Hosh	Northern Darfur	No
19 April 2007	Hashaba	Northern Darfur	No
21 April 2007	Umm Rai, Anka	Northern Darfur	Yes
22 April 2007	Umm Rai	Northern Darfur	Yes
29 April 2007	Hashaba Central	Northern Darfur	Yes
3 May 2007	Al Hosh	Northern Darfur	No
12, 14-16 May 2007	Daffag, Deim Bishara, Umm Bereida, Sheilla	Southern Darfur	Yes
19 May 2007	Al Hosh	Northern Darfur	No
19 May 2007	Wakhaim	Northern Darfur	No
1 June 2007	Gubbo, Kara	Southern Darfur	No
12 June 2007	Anka, Al Hosh	Northern Darfur	No
24 June 2007	Ereda, Weir, Ensiro	Northern Darfur	No

Annex V

Catalogue of outgoing correspondence by the Panel of Experts to Member States

Date	*Reference No.*	*Member State*	*Follow-up/Status*
07.01.07	S/AC.47/2007/PE/OC.2	Government of the Sudan	
19.01.07	S/AC.47/2007/PE/OC.3	Chad	Visit by Panel to Chad following letter
22.01.07	S/AC.47/2007/PE/OC.4	United Arab Emirates	Visit by Panel to United Arab Emirates following letter
27.01.07	1591P/G/0107-4	Government of the Sudan: Civil Aviation Authority	Request for information
01.02.07	S/AC.47/2007/PE/OC.5	Egypt	Request for visit; visit did not occur
13.03.07	S/AC.47/2007/PE/OC.6	United Arab Emirates	Visit by Panel to United Arab Emirates following letter
13.03.07	S/AC.47/2007/PE/OC.7	Japan	Response received
20.03.07	S/AC.47/2007/PE/OC.8	Egypt	Request for visit; visit did not occur
20.03.07	S/AC.47/2007/PE/OC.9	Kenya	Visit by Panel to Kenya following letter
26.03.07	S/AC.47/2007/PE/OC.10	Israel	No response
26.03.07	S/AC.47/2007/PE/OC.11	Russian Federation	Response received
27.03.07	S/AC.47/2007/PE/OC.12	Saudi Arabia	No response
09.04.07	S/AC.47/2007/PE/OC.13	Libyan Arab Jamahiriya	Response received/no visit facilitated and no information provided
09.04.07	S/AC.47/2007/PE/OC.14	Eritrea	Response received
16.04.07	S/AC.47/2007/PE/OC.16	China	No response
25.04.07	S/AC.47/2007/PE/OC.17	Kazakhstan	Response received
29.04.07	1591P/G/0407-4	Sudan MFA	Visa request letter
03.05.07	S/AC.47/2007/PE/OC.18	Eritrea	Request for visit; visit did not occur
22.06.07	S/AC.47/2007/PE/OC.20	Central African Republic	No response
22.06.07	S/AC.47/2007/PE/OC.21	Kazakhstan	Response received
27.06.07	S/AC.47/2007/PE/OC.22	Eritrea	Follow-up to request for visit
10.07.07	S/AC.47/2007/PE/OC.23	Russian Federation	Response received/some requested information not provided
11.07.07	S/AC.47/2007/PE/OC.24	Japan	Response received

Date	*Reference No.*	*Member State*	*Follow-up/Status*
03.08.07	S/AC.47/2007/PE/OC.25	Belarus	Response received
13.08.07	S/AC.47/2007/PE/OC.26	Russian Federation	Response pending
16.08.07	S/AC.47/2007/PE/OC.27	Ukraine	Response pending
17.08.07	S/AC.47/2007/PE/OC.29	Eritrea	Follow-up to PE/OC.14, 18 and 22
17.08.07	S/AC.47/2007/PE/OC.30	Central African Republic	Follow-up to PE/OC.20
17.08.07	S/AC.47/2007/PE/OC.31	Libyan Arab Jamahiriya	Follow-up to PE/OC.13
30.08.07	S/AC.47/2007/PE/OC.32	Chad	Response pending
30.08.07	S/AC.47/2007/PE/OC.33	Russian Federation	Response pending
31.08.07	S/AC.47/2007/PE/OC.34	Oman	Response pending

Note: Letters sent since 1 August 2007 for which a response has not yet been received have been identified as "response pending" to allow sufficient time for Member States to provide a response.